



State of New Jersey
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PSYCHOLOGICAL EXAMINERS
STATUTES AND REGULATIONS

NEW JERSEY STATUTES ANNOTATED
TITLE 45. PROFESSIONS AND OCCUPATIONS
CHAPTER 14B. PSYCHOLOGISTS

**SUBTITLE 1. PROFESSIONS AND OCCUPATIONS REGULATED BY
STATE BOARDS OF REGISTRATION AND EXAMINATION**

45:14B-1. Short title

This act shall be known and may be cited as the "Practicing Psychology Licensing Act."

45:14B-2. Definitions

As used in this act, unless the context clearly requires otherwise and except as in this act expressly otherwise provided:

(a) "Licensed practicing psychologist" means an individual to whom a license has been issued pursuant to the provisions of this act, which license is in force and not suspended or revoked as of the particular time in question.

(b) The "practice of psychology" means the rendering of professional psychological services to individuals, singly or in groups, whether in the general public or in organizations, either public or private, for a fee, monetary or otherwise. "Professional psychological services" means the application of psychological principles and procedures in the assessment, counseling or psychotherapy of individuals for the purposes of promoting the optimal development of their potential or ameliorating their personality disturbances and maladjustments as manifested in personal and interpersonal situations. Within the meaning of this act, professional psychological services does not include the application for a fee, monetary or otherwise, of psychological principles and procedures for purposes other than those described in this section.

(c) "Board" means the State Board of Psychological Examiners acting as such under the provisions of this act.

(d) "Recognized educational institution" means any educational institution which is a 2-year junior college or one which grants the Bachelor's, Master's, and Doctor's degrees, or any one or more thereof, and which is recognized by the New Jersey State Board of Education or by any accrediting body acceptable to the State Board of Psychological Examiners.

45:14B-3. Recognition of educational institutions

No educational institution shall be denied recognition as a recognized educational institution solely because its program is not accredited by any professional organization of psychologists and nothing in this act or in the administration of this act shall require the registration with the board by educational institutions of Departments of Psychology or doctoral programs in psychology.

45:14B-4. Unauthorized practice of medicine and surgery

Nothing in this act shall authorize the practice of medicine and surgery by any person not licensed so to do pursuant to chapter 9 of Title 45 of the Revised Statutes.

45:14B-5. Use of title or description by unlicensed person

Commencing January 1, 1968, no person who is not licensed under this act shall represent himself to be

a licensed practicing psychologist, use a title or description, including the term "psychology," any of its derivatives, such as "psychologist" or "psychological" or modifiers such as "practicing" or "certified," in a manner which would imply that he is licensed under this act, or offer to practice or practice psychology as defined in this act, except as otherwise permitted in sections 6 and 8. [FN1] The use by a person who is not licensed under this act of such terms, whether in titles or descriptions or otherwise, is not prohibited by this act except when in connection with the offer to practice or the practice of psychology as defined in section 2(b) of this act. [FN2] Use of such terms in connection with professional activities other than the rendering of professional psychological services to individuals for a fee, monetary or otherwise, shall not be construed as implying that a person is licensed under this act or as an offer to practice or as the practice of psychology.

[FN1] N.J.S.A. § 45:14B-6, 45:14B-8.

[FN2] N.J.S.A. § 45:14B-2.

45:14B-6. Unlicensed persons; activities allowed

Any individual who is not a licensed practicing psychologist shall not be limited in his activities:

(a) As part of his duties as an employee of:

(1) an accredited academic institution, a Federal, State, county or local governmental institution or agency, or a research facility while performing those duties for which he was employed by such an institution, agency or facility;

(2) a business organization, while performing those duties for which he was employed by such an organization, and providing the purposes of such an organization do not include the offer to practice, or the practice of, psychology as defined in section 2(b) of this act; [FN1]

(3) an organization which is nonprofit and which is, in the opinion of the board, a bona fide community agency, while performing those duties for which he was employed by such an agency under the direct supervision of a licensed practicing psychologist. For the purposes of this subsection a "community agency" means a nonprofit organization supported wholly or in a major part by public funds.

(b) As required by his employer to the pupils, students or other normal clientele within the scope of his employment but not to the general public, provided he is employed by a private elementary or secondary school that requires its psychologists to be certified as school psychologists by the New Jersey State Department of Education.

(c) As a student of psychology, psychological intern or person preparing for the practice of psychology under qualified supervision in a training institution or facility recognized by the board provided he is designated by such titles as "psychological intern," "psychological trainee" or others, clearly indicating such training status.

(d) As a practicing psychologist for a period not to exceed 10 consecutive business days or 15 business days in any 90-day period, if he resides outside, and his major practice is outside, of the State of New Jersey and gives the board a summary of his qualifications and a minimum of 10 days' written notice of his intention to practice in the State of New Jersey under this section 6(d), provided he (1) is certified or licensed in another State under requirements the board considers to be the equivalent of requirements for licensing under this act or (2) resides in a State which does not certify or license psychologists and the board considers his professional qualifications to be the equivalent of requirements for licensing under this act; and is not adjudged and notified by the board that he is ineligible for licensing under this act.

(e) As a practicing psychologist for a period not exceeding one year, if he has a temporary permit therefor which the board may issue upon his filing of an application for licensing under this act.

(f) As a practicing psychologist for a period not exceeding three years under the supervision of a licensed practicing psychologist or a person designated by the board as an eligible supervisor, if he has a temporary permit therefor which the board may issue upon his completion of all the requirements for licensing under this act except the supervised experience requirement.

(g) As a practicing psychologist certified as a school psychologist by the State Department of Education and performing services on behalf of a local school district to students for whom the school district is responsible to provide services.

[FN1] N.J.S.A. § 45:14B-2.

45:14B-7. Exceptions not available to certain persons

The exceptions specified in section 6 [FN1] (d), (e) and (f) shall not be available to any person who has been found by a court of this or any State of the United States to have been guilty of and who fails to present satisfactory evidence of recovery from or correction of gross immorality, habitual intoxication, drug addiction, criminality involving felonious action or moral turpitude, or dishonorable or unprofessional conduct. An action to determine whether any person asserting an exemption under section 6(d), (e) or (f) has committed one or more of the acts listed in this section may be brought by the Attorney General on behalf of the board.

[FN1] N.J.S.A. § 45:14B-6.

45:14B-8. Members of other professional groups doing work of psychological nature

Nothing in this act shall be construed to prevent qualified members of other professional groups such as physicians, osteopaths, optometrists, chiropractors, members of the clergy, authorized practitioners, attorneys at law, social workers or guidance counselors from doing work of a psychological nature consistent with the accepted standards of their respective professions, provided, however, that they do not hold themselves out to the public by any title or description stating or implying that they are psychologists or are licensed to practice psychology.

45:14B-9. State board of psychological examiners; number of members

There is hereby created, in the Division of Professional Boards of the Department of Law and Public Safety, the State Board of Psychological Examiners, which shall consist of 7 members to be appointed by the Governor. The board shall at all times, except for vacancies, be composed of members who represent equitably the diverse fields of psychology, a majority of whom shall be licensed practicing psychologists. All members shall have the qualifications hereinafter set forth in section 10 of this act. [FN1]

[FN1] N.J.S.A. § 45:14B-10.

45:14B-10. Members of board; qualifications

Each member of the board shall have the following qualifications:

(a) He shall be a resident of this State and a citizen of the United States.

(b) He shall either be a member of or have professional standing equivalent to that required for classification as a member of the New Jersey Psychological Association and the American Psychological Association.

(c) He shall be at the time of his appointment, and shall have been for at least 5 years prior thereto, actively engaged as a psychologist in one or more phases or branches of psychology or in the education and training of doctoral or postdoctoral students of psychology or in psychological research, and shall

have spent the major portion of the time devoted by him to such activity, during the 2 years preceding his appointment, in this State.

(d) He shall hold the doctoral degree in psychology or in a closely allied field from a recognized educational institution.

45:14B-11. Terms

The terms of the first 7 members of the board shall expire as follows: one member, June 30, 1968; 2 members, June 30, 1969; 2 members, June 30, 1970; 2 members, June 30, 1971. Thereafter, each member of the board shall be appointed for a term of 3 years. If before the expiration of his term any member shall die, resign, become disqualified or otherwise cease to be a board member, the vacancy shall be filled by the Governor by appointment for the unexpired term. Each appointee shall, upon accepting appointment to the board, take and subscribe to the oath or affirmation prescribed by law and file same in the office of the Secretary of State.

The first 7 appointees shall be deemed to be and shall become licensed practicing psychologists immediately upon their appointment and qualification as members of the board.

45:14B-12. Removal; hearing; written notice

The Governor shall have power to remove from office any member of the board for incompetence, neglect of duty, unprofessional conduct or moral turpitude; but no board member may be thus removed until after a public hearing of the charges against him, and at least 30 days prior written notice to such accused member of the charges against him and of the date fixed for such hearing.

45:14B-13. Meetings; chairman, vice-chairman and secretary; seal; quorum; rules and regulations; issuance of permit or license; expenses; subpoenas

The board shall, at its first meeting, to be called by the Governor as soon as may be following the appointment of its members, and at all annual meetings, to be held in June of each year thereafter, organize by electing from among its members a chairman, vice-chairman and secretary whose election shall be subject to the approval of the Attorney General. Such officers shall serve until the following June 30 and until their successors are appointed and qualified. The board shall adopt a seal which shall be affixed to all licenses issued by the board. The board shall administer and enforce the provisions of this act. The board shall hold at least one regular meeting each year; but additional meetings may be held upon call of the chairman or at the written request of any 2 members of the board. Four members of the board shall constitute a quorum and no action at any meeting shall be taken without at least 3 votes in accord. The board shall from time to time adopt such rules and regulations and such amendments thereof and supplements thereto as it may deem necessary to enable it to perform its duties under and to carry into effect the provisions of this act. The board shall examine and pass on the qualifications of all applicants for permits or licenses under the act, and shall issue a permit or license to each qualified successful applicant therefor, attesting to his professional qualifications to engage in the practice of psychology.

Each member of the board shall be reimbursed for actual expenses reasonably incurred in the performance of his duties as a member of or on behalf of the board.

Subject to the approval of the Attorney General, the board shall be empowered to hire such assistants as it may deem necessary to carry on its activities. All expenditures deemed necessary to carry out the provisions of this act shall be paid by the State Treasurer from the license fees and other sources of income of the board, within the limits of available appropriations according to law, but in no event shall expenditures exceed the revenues of the board during any fiscal year. The board, through its chairman or secretary, may issue subpoenas to compel the attendance of witnesses to testify before the board and produce relevant books, records and papers before the board and may administer oaths in taking testimony, in any matter pertaining to its duties under the act (including, without limitation, any hearing

authorized or required to be held by the board under any provisions of this act), which subpoenas shall issue under the seal of the board and shall be served in the same manner as subpoenas issued out of the Superior Court. Every person who refuses or neglects to obey the command of any such subpoena, or who, after hearing, refuses to be sworn and testify, shall, in either event, be liable to a penalty of \$50.00 to be sued for in the name of the board in any court of competent jurisdiction, which penalty when collected shall be paid to the secretary of the board.

45:14B-14. Application for license; contents

Each person desiring to obtain a license as a practicing psychologist shall make application therefor to the board upon such form and in such manner as the board shall prescribe and shall furnish evidence satisfactory to the board that he:

- (a) Is at least 21 years of age;
- (b) Is of good moral character;
- (c) Is not engaged in any practice or conduct which would be a ground for refusing to issue, suspending or revoking a license issued pursuant to this act;
- (d) Qualifies for licensing by an examination of credentials or for admission to an assembled examination to be conducted by the board.

45:14B-15, 45:14B-16. Repealed by L.1979, c. 432, § 5, eff. Feb. 14, 1980

45:14B-17. Persons applying after January 1, 1968; qualifications for admission to assembled examination

Any person applying to the board, after January 1, 1968, may be admitted to an assembled examination if he meets the qualifications set forth in section 14 [FN1] (a), (b) and (c) and provides evidence satisfactory to the board that he:

- (a) Has received the degree of Doctor of Philosophy in psychology from a recognized educational institution, or in lieu of such degree, a doctoral degree in a closely allied field if it is the opinion of the board that the training required therefor is substantially similar, or has otherwise had training in psychology deemed equivalent by the board;
- (b) Has engaged for the equivalent of at least 2 years full time, at least 1 year of which was subsequent to his receiving the doctoral degree, in professional employment in the practice of psychology under the supervision of a licensed psychologist or of one clearly eligible for licensure in the opinion of the board, which employment the board deems sufficient to warrant its opinion that the applicant is competent to engage in the practice of psychology as a licensed psychologist, subject to his satisfying the other requirements for such license specified in this act.

[FN1] N.J.S.A. § 45:14B-14.

45:14B-18. Conduct of examinations

The board shall conduct assembled examinations at least once a year at a time and place to be designated by it. Assembled examinations shall be written and, if the board deems advisable, oral. In any written examination each applicant shall be designated by a number so that his name shall not be disclosed to the board until examinations have been graded. Examinations shall include questions in such theoretical and applied fields as the board deems most suitable to test an applicant's knowledge and competence to engage in the practice of psychology. An applicant shall be held to have passed an examination upon the affirmative vote of at least 4 members of the board.

45:14B-19. Failure to pass examination: reexamination

Any person who shall have failed an examination conducted by the board may not be admitted to a subsequent examination for a period of at least 6 months.

45:14B-20. License without examination

The board may issue a license by an examination of credentials to any applicant who presents evidence that he (a) is licensed or certified as a psychologist in another State with requirements for said license or certificate such that the board is of the opinion that said applicant is competent to engage in the practice of psychology in this State or (b) holds a diploma from a nationally recognized psychological board or agency.

45:14B-21, 45:14B-22. Repealed by L.1979, c. 432, § 2, 6, eff. Feb. 14, 1980

45:14B-23. Renewal: application forms

On or before April 15 in each year the secretary of the board shall forward to the holder a form of application for renewal thereof. Upon the receipt of the completed form and the renewal fee on or before June 30 the secretary shall issue a new license for the year commencing July 1. Any application for renewal of a license which has expired shall in addition require the payment of a reregistration fee, or in such cases as the board may by rule prescribe, by a new application fee.

45:14B-24. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000

45:14B-25. Reinstatement

Application may be made to the board for reinstatement, at any time after the expiration of 1 year from the date of revocation of a license. Such application shall be in writing and shall be accompanied by the reinstatement fee. The board shall not reinstate any applicant, unless satisfied that he is competent to engage in the practice of psychology, and, if it deems same necessary for such determination, may require the applicant to pass an examination.

45:14B-26, 45:14B-27. Repealed by L.1979, c. 432, § 1, eff. Feb. 14, 1980

45:14B-28. Confidential relations and communications

The confidential relations and communications between and among a licensed practicing psychologist and individuals, couples, families or groups in the course of the practice of psychology are placed on the same basis as those provided between attorney and client, and nothing in this act shall be construed to require any such privileged communications to be disclosed by any such person.

There is no privilege under this section for any communication: (a) upon an issue of the client's condition in an action to commit the client or otherwise place the client under the control of another or others because of alleged incapacity, or in an action in which the client seeks to establish his competence or in an action to recover damages on account of conduct of the client which constitutes a crime; or (b) upon an issue as to the validity of a document as a will of the client; or (c) upon an issue between parties claiming by testate or intestate succession from a deceased client.

45:14B-29. Disposition of fees, fines, penalties and other moneys

All fees, fines, penalties and other moneys derived from the operation of this act shall be paid to the board and by it remitted to the State Treasurer.

45:14B-30. Partial invalidity

If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of the act which can be given effect without such invalid provision or application, and to this end the provisions of this act are declared to be severable.

45:14B-31. Definitions

As used in this act:

a. "Administrative information" means a patient's name, age, sex, address, educational status, identifying number, date of onset of difficulty, date of initial consultation, dates and character of sessions (individual or group), and fees;

b. "Diagnostic information" means therapeutic characterizations which are of the types that are found in the Diagnostic and Statistical Manual of Mental Disorders (DSM III), of the American Psychiatric Association, or other professionally recognized diagnostic manual;

c. "Disclose" means to communicate any information in any form;

d. "Independent professional review committee" means that group of licensed psychologists established pursuant to section 14 of this act [FN1] by the State Board of Psychological Examiners;

e. "Third-party payor" means any provider of benefits for psychological services, including but not limited to insurance carriers and employers, whether on an indemnity, reimbursement, service or prepaid basis, but excluding governmental agencies;

f. "Usual, customary or reasonable." In applying this standard the following definitions are applicable:

(1) "Usual" means a practice in keeping with the particular psychologist's general mode of operation;

(2) "Customary" means that range of usual practices provided by psychologists of similar education, experience, and orientation within a similar geographic or socioeconomic area;

(3) "Reasonable" means that there is an acceptable probability that the patient will realize a significant benefit from the continuation of the psychological treatment.

In applying the standards of "usual, customary, and reasonable," the following guidelines are applicable: If a psychological treatment is "usual" or "customary," an inference that the treatment is also "reasonable" is warranted. If the treatment is neither "usual" nor "customary," then it shall satisfy the criterion of "reasonable."

[FN1] N.J.S.A. § 45:14B-44.

45:14B-32. Disclosure to third-party payors: limitations

A patient who is receiving or has received treatment from a licensed, practicing psychologist may be requested to authorize the psychologist to disclose certain confidential information to a third-party payor for the purpose of obtaining benefits from the third-party payor for psychological services, if the disclosure is pursuant to a valid authorization as described in section 6 of this act [FN1] and the information is limited to:

a. Administrative information;

b. Diagnostic information;

c. The status of the patient (voluntary or involuntary; inpatient or outpatient);

- d. The reason for continuing psychological services, limited to an assessment of the patient's current level of functioning and level of distress (both described by the terms mild, moderate, severe or extreme);
- e. A prognosis, limited to the estimated minimal time during which treatment might continue.

[FN1] N.J.S.A. § 45:14B-36.

45:14B-33. Third-party payor request for independent review

If the third-party payor has reasonable cause to believe that the psychological treatment in question may be neither usual, customary nor reasonable, the third-party payor may request, and compensate reasonably for, an independent review of the psychological treatment by an independent professional review committee. The request shall be made in writing to the treating psychologist. No third-party payor having such reasonable cause shall terminate benefits without following the procedures set forth in section 4 of this act. [FN1]

[FN1] N.J.S.A. § 45:14B-34.

45:14B-34. Notice and independent treatment review; disclosures

Within 10 days of the receipt of the request for review by a third-party payor, the treating psychologist shall notify the State Board of Psychological Examiners of the request. Pursuant to the provisions of section 14 of this act, [FN1] the State Board of Psychological Examiners shall, within 10 days of the notification, inform the treating psychologist of two or more members of the independent professional review committee who shall be known as "reviewers" and who shall conduct the review. Under these circumstances, the patient may, pursuant to a valid authorization as described in section 6 of this act, [FN2] authorize the treating psychologist to disclose to the reviewers the requested confidential information concerning his treatment. This information shall be disclosed only in accordance with the following procedure described in this section and shall not be disclosed to a third-party payor or any person other than the reviewers and shall not contain any reference to the patient's identification but rather shall refer to an identification number assigned by the third-party payor. If the patient gives a valid written authorization, the reviewers shall, pursuant to the following review procedure and within 20 days from their receipt of the review request from the State Board of Psychological Examiners, certify in writing to the third-party payor whether or not in their opinion the treatment in question is usual, customary or reasonable or if they are unable to make that determination. The treatment review shall take place as follows:

- a. The treating psychologist shall provide in writing to the reviewers the following information: the case identification number; the status of the patient; duration and frequency of treatment; the diagnosis; the prognosis; and the level of functioning and the level of distress, both described by the terms mild, moderate, severe or extreme. If on the basis of this information the reviewers can certify that the treatment is usual, customary or reasonable, no further review shall be necessary at that time.
- b. If the reviewers cannot make this determination from the information provided, the reviewers shall request the treating psychologist to provide a written statement describing his customary mode of treatment for the particular diagnosis given. If, on the basis of this information, the reviewers can certify that the treatment is usual, customary or reasonable, no further review shall be conducted at that time.
- c. If the reviewers cannot make this determination from the information provided, they shall request the treating psychologist to provide details and circumstances concerning the case under review. The reviewers shall then certify to the third-party payor their conclusion as to whether or not the treatment in question is usual, customary or reasonable, and the date and length of time of the consultation.
- d. A negative conclusion by the reviewers pursuant to this section shall not be used retroactively as a basis for denying benefits for the treatment furnished prior to the review request by the third-party payor, unless the claim for reimbursement involves fraud or was not filed in a timely manner.

[FN1] N.J.S.A. § 45:14B-44.

[FN2] N.J.S.A. § 45:14B-36.

45:14B-35. Disclosures as waiver of privileges

The authorization and disclosure of confidential information pursuant to the provisions of section 2 or 4 of this act [FN1] shall not constitute a waiver of the privilege accorded by section 28 of P.L.1966, c. 282 (C. 45:14B-28), and the third-party payor and the members of the independent professional review committee are subject to the provisions of that section.

[FN1] N.J.S.A. § 45:14B-32 or 45:14B-34.

45:14B-36. Disclosure authorization; contents

A valid authorization for the purpose of this act shall:

- a. Be in writing;
- b. Specify the nature of the information to be disclosed, the person authorized to disclose the information, to whom the information may be disclosed, the specific purposes for which the information may be used, both at the time of disclosure and at any time in the future;
- c. Specify that the patient is aware of the statutory privilege accorded by section 28 of P.L.1966, c. 282 (C. 45:14B-28) to confidential communications between a patient and a licensed psychologist;
- d. State that the consent is subject to revocation at any time;
- e. Be signed by the patient or the person authorizing the disclosure. If the patient is adjudicated incompetent or is deceased, the authorization shall be signed by the patient's legally authorized representative. When the patient is more than 14 years of age but has not yet reached the age of majority, the authorization shall be signed by the patient and by the patient's parent or legal guardian. When the patient is less than 14 years of age, the authorization shall be signed only by the patient's parent or legal guardian; and
- f. Contain the date upon which the authorization was signed.

45:14B-37. Time limitation of disclosure authorization

Any authorization executed pursuant to this act shall apply only to the disclosure of information which exists as of the date the authorization is signed and shall not be effective more than one year from that date.

45:14B-38. Patient's copy of disclosure authorization

A copy of the authorization shall be provided to the person authorizing the disclosure.

45:14B-39. Disclosures by third-party payor

Information disclosed pursuant to section 2 of this act [FN1] shall not be further disclosed by the third-party payor or to any other party or in any legal proceeding without valid authorization, unless disclosure is otherwise required by law or when relevant to legal disputes between the third-party payor and the patient with regard to a determination of the entitlement to, or the amount of, payment of benefits for psychological services.

[FN1] N.J.S.A. § 45:14B-32.

45:14B-40. Purpose of disclosure; limitations

Disclosure of information pursuant to section 2 or 4 of this act [FN1] is limited to the purposes specified in the authorization. Information disclosed pursuant to section 2 shall not be revealed by a third-party payor to any of its directors, officers, employees or consultants other than those authorized by the third-party payor to effectuate the purposes specified in the authorization, except as provided in section 9 of this act. [FN2]

[FN1] N.J.S.A. § 45:14B-32 or 45:14B-34.

[FN2] N.J.S.A. § 45:14B-39.

45:14B-41. Revocation of disclosure authorization

A patient who authorizes disclosure of confidential information under section 2 or 4 of this act [FN1] may revoke that authorization by providing a written revocation to the recipient named in the authorization and to the psychologist authorized to disclose the information. The revocation shall be effective upon receipt. After the effective date of revocation, no information may be disclosed pursuant to the authorization; however, information previously disclosed may be used for the purposes stated in the written authorization.

[FN1] N.J.S.A. § 45:14B-32 or 45:14B-34.

45:14B-42. Violations: penalties and costs

Any person who negligently violates the provisions of this act shall be liable in an amount equal to the damages sustained by the patient plus the costs of the action and reasonable attorney's fees. Any person who recklessly or intentionally violates the provisions of this act shall be liable in damages sustained by the patient in an amount not less than \$5,000.00 plus the costs of the action and reasonable attorney's fees. In either case, either party is entitled to a trial by jury upon request. Any liability imposed for violation of this act is in addition to, and not in lieu of, any civil or administrative remedy, penalty, or sanction otherwise authorized by law.

45:14B-43. Invalidity of waiver of provisions of act

Any consent or agreement purporting to waive the provisions of this act shall be against public policy and void.

45:14B-44. Independent professional review committee

The State Board of Psychological Examiners shall promulgate rules and regulations to establish an independent professional review committee whose members shall serve for a three-year term. Members of the independent professional review committee shall be psychologists who have been licensed in the State of New Jersey for the preceding five years and who are currently and have been for the preceding five years engaged for the majority of their professional work in the practice of psychotherapy. The independent professional review committee shall include three or more psychologists in each of the major theoretical orientations. The State Board of Psychological Examiners may fill vacancies on the committee which may from time to time occur, but no person who has served for a full term shall succeed himself.

45:14B-45. Rules and regulations

The State Board of Psychological Examiners shall promulgate rules and regulations to effectuate the purposes of this act, including the establishment of procedural standards for the independent professional review committee and shall seek input from all interested parties on all issues raised in this act. A report

shall be submitted by the State Board of Psychological Examiners to the Director of the Division of Consumer Affairs on the implementation of this act within a reasonable period of time.

45:14B-46. Construction with powers of board of psychological examiners

Nothing in this act shall be construed to limit the legal authority of the State Board of Psychological Examiners to regulate the practice of psychology in the State of New Jersey.

NEW JERSEY STATUTES ANNOTATED
TITLE 45, CHAPTER 1.
UNIFORM ENFORCEMENT ACT

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

45:1-2. Repealed by L.1971, c.60, § 5, eff. March 25, 1971

45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.¹

¹ Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of Consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional

public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c.60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c.60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual

expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,¹ or any pension law or retirement system.

¹Now title 11A.

45:1-3 Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2¹ of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

¹Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory

Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act ¹ may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

¹Section 45:1-3.1.

45:1-3.3. Administrative fees charged by boards; modification

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). For purposes of this section, "administrative fees" are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2¹ of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

¹Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5, 45:1-6. Repealed by L.1979, c.432, § 4, eff. Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Application to holders of professional or occupational licenses

a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c.403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.

b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c.73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.

d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.

e. A board specified in section 2 of P.L. 1978, c.73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c.403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an

active license, registration or certification, if applicable.

45:1-8. Contractors: application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c.100 (C. 13:1-28 et seq.¹);
- b. Home repair contractors, licensed pursuant to P.L.1960, c.41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c.162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c.377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

¹Renumbered C. 45:15C-1 to 45:15C-10.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment: licensed health care professional: responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c.154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
 - (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
 - (2) A professional who fails to file a claim within 180 days and whose claim for payment has

been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.

- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.).
- d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c.403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational

Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c.73 (C.45:1-14 et seq.) and the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c.73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

"Board" means any professional or occupational licensing board designated in section 2 of this act.¹

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Person" means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹Section 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c.410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.
- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set

aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a licensed profession or occupation is conducted;
- d. Examine any goods, ware or item used in the rendition of any professional or occupational service;
- e. Examine any record, book, document, account or paper maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license.

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for

which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c.418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c.418 (C. 13:1D-110) regarding compliance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c.419 (C. 13:1D-117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c.46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c.73 (C. 47:1A-1 et seq.).

45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably

demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:

- (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
- (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
- (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.

b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General

may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to "the penalty enforcement law" (N.J.S.A. 2A:58-1 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

**NEW JERSEY ADMINISTRATIVE CODE
CHAPTER 42. TITLE 13.
BOARD OF PSYCHOLOGICAL EXAMINERS**

**SUBCHAPTER 1. SCOPE OF PRACTICE; PERSONS REQUIRING LICENSURE;
EXEMPTIONS FROM LICENSURE; UNLICENSED PRACTICE**

13:42-1.1 Scope of practice

(a) The scope of practice of a licensed psychologist includes, but is not limited to, the use or advertisement of the use of theories, principles, procedures, techniques or devices of psychology, whether or not for a fee or other recompense. Psychological services include, but are not limited to:

1. Psychological assessment of a person or group including, but not limited to: administration or interpretation of psychological tests and devices for the purpose of educational placement, job placement, job suitability, personality evaluation, intelligence, psychodiagnosis, treatment planning and disposition; career and vocational planning and development; personal development; management development; institutional placements; and assessments in connection with legal proceedings and the actions of governmental agencies including, but not limited to, cases involving education, divorce, child custody, disability issues and criminal matters;

2. Psychological intervention or consultation in the form of verbal, behavioral or written interaction to promote optimal development or growth or to ameliorate personality disturbances or maladjustments of an individual or group. Psychological intervention includes, but is not limited to, individual, couples, group and family psychotherapy, and psychological consultation includes consultation to or for private individuals, groups and organizations and to or for governmental agencies, police and any level of the judicial system;

3. Use of psychological principles, which are operating assumptions derived from the theories of psychology that include, but are not limited to: personality, motivation, learning and behavior systems, psychophysiological psychology including biofeedback, neuropsychology, cognitive psychology and psychological measurement; and

4. Use of psychological procedures, which are applications employing the principles of psychology and associated techniques, instruments and devices. These procedures include, but are not limited to, psychological interviews, counseling, psychotherapy, hypnotherapy, biofeedback, and psychological assessments

13:42-1.2 Persons requiring licensure; persons not requiring licensure

(a) Persons requiring licensure include all those whose conduct is within the scope of practice set forth in N.J.A.C. 13:42-1.1 and whose practice is not otherwise exempt pursuant to N.J.S.A. 45:14B-6, N.J.S.A. 45:14B-8, N.J.A.C. 13:42-1.4 and 1.5, and (b) below, including the following:

1. Persons offering services to the public in private practice, in partnership with other licensed health care professionals, in professional service corporations as shareholders or employees, and in or affiliated with all forms of managed health care organizations (for example, HMO, PPO, IPA, etc.);

2. Employees of general business corporations to the extent such practice is permitted pursuant to N.J.A.C. 13:42-7.5; and

3. (Reserved)

(b) Persons not requiring licensure are limited to persons engaged in the practice of hypnotherapy as well as those whose conduct and practice is exempt from licensure pursuant to this subchapter.

1. For purposes of this subsection, hypnotherapy means the induction of a hypnotic state by applying individualized techniques to induce hypnosis in order to assist clients with stress management not related to a medical or mental health disorder, altering habits such as smoking and weight management, increasing client motivation in employment, the workplace and in sports activities and enhancing creative, artistic and scholastic endeavors.

2. The services of a hypnotherapist shall be limited to:

- i. Interviewing a client to determine the nature of the client's problem;
- ii. Assessing the client's suitability for hypnotherapy;
- iii. Testing a prospective client to determine the client's level of suggestibility;
- iv. Preparing clients for hypnosis through an explanation of the process and procedures used as well as a description of the resulting hypnotic state to be experienced by the client;
- v. Teaching self-hypnosis to clients;
- vi. Inducing the hypnotic state; and
- vii. Applying hypnotic techniques.

13:42-1.3 Employment by a nonprofit bona fide community organization; exemption from licensure

(a) Pursuant to N.J.S.A. 45:14B-6(a)3, a psychologist employee of a nonprofit organization which is a bona fide community agency supported wholly or in major part by public funds is exempted from licensure provided the employee is under the direct supervision of a licensed practicing psychologist. For purposes of this section, "direct supervision" shall mean acts performed at a nonprofit bona fide community organization wherein he or she is constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.

(b) For purposes of this section, the term "public funds" shall not mean payments by Medicare or Medicaid or other public or private insurance fund on behalf of an individual client to an individual provider (directly or through a professional service corporation) licensed by the Board.

(c) For purposes of this section, the term "non-profit bona fide community organization" shall mean:

1. An entity which is exempt from taxation pursuant to section 501 of the United States Internal Revenue Code and which meets one of the following definitions. The organization shall be:

- i. A corporate entity or any community chest, fund or foundation organized and operated exclusively for religious or charitable purposes;
- ii. A civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; or
- iii. A religious society devoted exclusively to charitable or religious purposes; or

2. An entity which has as its commitment the delivery of mental health services to clients who are amenable to those forms of psychological services customarily provided by the organization and which meets one of the following definitions:

i. The organization receives 50 percent or more of its funding in the form of public monies from a budget line or grant appropriated on a quarterly, twice-yearly, annual or other regular basis; or

ii. The organization has publicly and permanently committed itself to accepting, without numerical restriction, clients whose treatment shall be reimbursed either by Medicaid or Medicare or other public insurance program funding.

(d) Examples of organizations which may be considered bona fide non-profit community organizations under the definition set forth in (c)2 above include private or public non-psychiatric hospitals which are licensed by the New Jersey State Department of Health to provide health and medical care to the general public and which have a designated psychiatric unit.

(e) By July 19, 1995 or at the time employment of the unlicensed psychologist employee commences, whichever is later, the exempt entity or exempt practitioner shall submit to the Board a notice specifying the following information:

1. The public commitment of the organization and the basis for exemption under this section;

2. The name of the New Jersey licensed psychologist(s) or psychiatrist(s) or other licensed mental health care practitioner authorized by law to render professional mental health services at the organization's facility; and

3. The name of each unlicensed psychologist employee who does or shall perform psychological services. The unlicensed psychologist employee shall not be an independent contractor.

(f) The exempt entity may submit notice on behalf of the employee(s), and a single annual notice in January of each year shall suffice to retain the exemption for that year. The exempt entity shall update the notice as necessary, and the Board will acknowledge receipt of each notice.

(g) Exemption shall be conditioned upon the employing organization continuing to meet the criteria of this section and N.J.S.A. 45:14B-6 as it may be affected by other applicable law.

13:42-1.4 Student of psychology; exemption from licensure

(a) For purposes of this section, "student of psychology" means a person who is presently registered at a regionally accredited institution and there matriculated into a graduate program of study leading toward a doctoral degree in psychology or an allied field.

(b) A student of psychology may be exempt from licensure under the Act provided that the student is under the supervision of an authorized supervisor as set forth in N.J.A.C. 13:42-4.2.

(c) The student's authorized supervisor shall be responsible for ensuring that:

1. The student's participation in the training program is a requirement of the graduate psychology program;

2. The student's transcript (or previous transcripts accepted by the degree-granting college or university as specifically supportive of the present graduate program leading toward the graduate degree) reflects prior academic training specific to the duties assigned to the student; and

3. The student is clearly identified as a student intern or extern prior to engaging in psychological practice.

13:42-1.5 Member of other professional group doing work of psychological nature; exemption from licensure

(a) The following individuals, who do work of a psychological nature consistent with the accepted standards of their respective professions, are exempt from licensure under the Practicing Psychology Licensing Act provided they do not hold themselves out to the public by any title or description stating or implying that such person is a psychologist or is licensed to practice psychology:

1. A licensed allopathic or osteopathic physician;
2. A licensed optometrist;
3. A licensed chiropractor;
4. A member of the clergy or pastoral counselor directly affiliated with a recognized ministry and employed by that ministry to provide psychological services;
5. A licensed attorney at law;
6. A licensed social worker under the supervision of a duly licensed mental health professional;
7. A licensed clinical social worker;
8. A licensed registered nurse certified by the Society of Clinical Specialists in Psychiatric Nursing of the American Nurses Association;
9. A person employed by the Federal government and solely in a Federal installation;
10. An authorized practitioner as designated by a New Jersey court of competent jurisdiction to perform services which may be psychological in nature pursuant to Rule of Court 5:3-3;
11. A school psychologist or guidance counselor who is certified by the New Jersey State Department of Education and who is employed by, and whose services are rendered in or for, a public or private school. No exemption shall be permitted to any school psychologist/counselor not certified by a governmental department of the State of New Jersey and not employed in an exempt setting as set forth in N.J.A.C. 13:42-1.3 and N.J.S.A. 45:14B- 6(a)1 and (b) unless otherwise authorized by law;
12. A professional counselor or associate counselor licensed pursuant to N.J.S.A. 45:8B-1 et seq., as amended by P.L. 1993, c.340;
13. A licensed marriage counselor;
14. A licensed occupational therapist;
15. A licensed physical therapist;
16. A career counselor registered pursuant to N.J.S.A. 34:8-65 et seq.; and
17. Any other category of practitioners specifically authorized by law to perform work of a psychological nature consistent with the accepted standards of their respective professions/occupations.

13:42-1.6 Ineligibility for exemption

A person denied a permit or license for reasons other than clear educational deficiency, or whose permit or license has been suspended, revoked or limited by the Board, shall be deemed ineligible to be employed in an exempt setting as defined in or to qualify for practice under N.J.S.A. 45:14B-6 except by order of the Board.

SUBCHAPTER 2. INITIAL QUALIFICATIONS

13:42-2.1 Application; qualifications to sit for examination

(a) An applicant for licensure shall file with the Board an application together with all supporting material. The application form requests a brief summary of educational and employment experience. Supporting material required to be submitted with the application includes official transcripts; an abstract of the applicant's doctoral dissertation as published in Dissertation Abstracts International; and two certificates of good moral character. Documentation of two years of full time or full time equivalent supervised experience in the practice of psychology is required upon the applicant's completion of such experience.

(b) In order to be eligible to sit for the examination, an applicant shall have two years of full time or full time equivalent supervised experience in accordance with N.J.A.C. 13:42-4, and:

1. An earned doctorate, which meets the criteria set forth in (d) through (i) below, in the field of psychology from an educational institution recognized by the Board;
2. An earned doctorate, which meets the criteria set forth in (d) through (i) below, in a field allied to psychology; or
3. Equivalent training as set forth in N.J.A.C. 13:42-2.3.

(c) The institution at which the applicant earned his or her doctorate shall have been fully accredited during the entirety of the applicant's attendance by an accrediting body generally recognized within the national academic community. Alternatively, an educational institutional program shall have been granted continuous provisional accreditation by a recognized regional or national entity during the entirety of the applicant's attendance, with full accreditation having been awarded within five years of the candidate's graduation.

(d) No more than one-third of the doctoral credits shall have been transferred from other regionally/nationally accredited graduate schools.

(e) The doctoral degree must be based upon at least 40 doctoral credit hours earned specifically within the field of psychology and within a doctoral program requiring personal attendance at the degree-granting institution. Thirty-six of the required 40 credit hours shall be distributed across the following areas of graduate study:

1. Personality Theory and Human Development Theory: six credits;
2. Learning Theory and/or Physiological Psychology: six credits;
3. Psychological Measurement and Psychological Assessment: six credits;
4. Psychopathology: six credits;
5. Psychological therapy/counseling or Industrial/Organizational Psychology: six credits; and

6. Research and Statistical Design: six credits.

(f) The applicant shall submit evidence of an additional 20 credit hours, also specifically in the field of psychology, but which were not necessarily obtained as part of the doctoral program. The additional 20 credits can have been granted at a pre-doctoral or post-doctoral graduate level and must have been obtained as part of an educational program in a regionally accredited institution.

(g) If the Board finds the psychological nature of the dissertation or of any course submitted as fulfilling the requirements of this section to be questionable, the Board may, prior to making a determination, consult with the chairperson of the graduate department of psychology of the degree-granting institution and the chairperson of the graduate department in which the degree was earned, or with any other expert designated by the Board.

(h) The Board may, in its discretion, recognize up to six credits for a dissertation which is psychological in nature. The six credits may be used either to satisfy the requirement of having at least 40 doctoral credit hours specifically within the field of psychology and earned within a doctoral program, or to satisfy a credit deficiency in one or more of the required distribution areas of doctoral study.

(i) The Board may, in its discretion, accept up to nine credits, taken at a regionally accredited school or university, to remediate a deficiency in the requirements of (e) and (f) above.

(ii)

13:42-2.2 Academic degree in a field allied to psychology

(a) An applicant for licensure based on receipt of an earned doctoral degree in a field allied to psychology shall arrange for transmittal to the Board of an official copy of all undergraduate and graduate transcripts from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board.

(b) The doctorate degree must meet the criteria set forth in N.J.A.C. 13:42-2.1(d) through (f), and the doctoral dissertation must be psychological in nature.

13:42-2.3 Equivalent training

(a) An applicant for licensure based on equivalent training shall submit evidence to the Board that the applicant has all of the following equivalent training:

1. An earned doctorate based upon a dissertation which is clearly psychological in nature from a regionally and/or nationally accredited educational institution or one which is recognized by the New Jersey State Department of Higher Education and by the Board; or, if the dissertation is not clearly psychological in nature, authorship of work in a refereed scholarly publication which work the Board deems to be clearly psychological in nature and equivalent to a dissertation; and

2. Extensive experience, subsequent to receipt of the earned doctorate and for at least the five years immediately preceding application, in the field of applied psychology. The applicant's work in the field of applied psychology must be generally accepted by the local and/or regional psychological community as meeting the standards of professional psychological practice and contributing substantially to that community; and

3. Substantial formal post-doctoral study in a training program accredited by a bona fide accrediting body acceptable to the Board.

SUBCHAPTER 3. ONE-YEAR UNSUPERVISED AND THREE-YEAR SUPERVISED TEMPORARY PERMITS FOR TRAINING PENDING ORAL EXAMINATIONS

13:42-3.1 One-year unsupervised permit

(a) The Board shall issue a numbered temporary permit for the unsupervised practice of psychology for a period not to exceed one year to a psychologist who:

1. Holds a license in good standing as a psychologist in another state with licensure requirements substantially similar to those of this State;

2. Otherwise qualifies for licensure pursuant to the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq.;

3. Has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq.;

4. Meets all requirements of New Jersey law other than passing of the oral examination in this State;

5. Has had at least two years of active post-doctoral experience in the practice of applied psychology within the four years immediately preceding application;

6. Has had no disciplinary action taken against a license to practice psychology held in any other state;

7. Provides the Board with a specific written plan for the practice of psychology in this State during the one-year term of unsupervised practice including, but not limited to, the number and kind of cases to be assumed, any affiliation or association with another mental health care provider in this State, and a statement in regard to whether the permit holder will be billing clients for psychological services directly or through another entity such as an employer; and

8. Has filed an application for licensure with the Board.

(b) The holder of a temporary permit pursuant to (a) above shall, within 90 days of issuance of the permit, submit to the Board a work sample for oral examination. Failure to meet this deadline may, upon notice to the permit holder, result in revocation of the permit.

(c) The permit holder shall complete the examination process before the expiration of the permit.

(d) The permit holder shall assume only the number and kind of cases that can be readily transferred to a licensed psychologist in the event the permit holder fails the examination or has his or her permit suspended or revoked prior to the expiration of the one-year period.

13:42-3.2 Three-year supervised permit

(a) The Board shall issue a numbered temporary permit for the supervised practice of psychology for a period not to exceed three years to a qualified individual who meets all requirements of New Jersey law, including the Practicing Psychology Licensing Act, N.J.S.A. 45:14B-1 et seq., other than the requisite number of hours of post-doctoral supervised experience and/or passing of the written and oral examinations and has not engaged in any act or practice which would be the basis for denying a permit under the Uniform Enforcement Act, N.J.S.A. 45:1-14 et seq. An applicant for licensure who has not completed the requirement for post-doctoral supervised experience shall be required to obtain a three-year supervised permit and comply with all of the provisions of this subchapter including those applicants who intend to obtain the supervised experience in a practice or facility that is otherwise exempt pursuant to N.J.S.A. 45:14B-6, N.J.S.A. 45:14B-8, or N.J.A.C. 13:42- 1.2 through 1.5.

(b) The permit holder shall practice only in accordance with the standards of supervised practice set forth in N.J.A.C. 13:42-4.

(c) The permit holder shall obtain the required supervised experience and successfully complete the written and oral examinations prior to the expiration of the permit.

(d) The permit holder shall undertake only the number and kind of cases that may be readily transferred to a licensed psychologist should the permit holder fail to obtain the required supervised experience, have his or her permit suspended or revoked, or fail to successfully complete the examination process prior to the expiration of the three-year period.

13:42-3.3 Limitation, suspension or revocation of permit by Board

(a) The Board may, upon notice to the permit holder limit, suspend or revoke the permit of an individual who fails the written or oral examination.

(b) The Board may, upon notice to the permit holder and the opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, limit, suspend or revoke the permit of an individual who fails to properly discharge his or her responsibilities.

13:42-3.4 Extension of permit upon request of permit holder

(a) Upon the written request of a permit holder, the Board may, in its discretion, extend the temporary permit for good cause shown.

(b) The permit holder shall submit the request for extension, together with the required fee, no later than 30 days before expiration of the permit. The request shall include the reason for the extension.

(c) Extension of a permit may be conditioned upon the individual meeting the following requirements:

1. Immediate appearance by the permit holder, upon notice, before a committee of the Board to review the current caseload;

2. Acceptance of such limitations and conditions (for example, reduction of caseload, alterations in the supervisory arrangement, personal therapy, etc.) as the Board may deem necessary to promote competent psychological practice; and/or

3. Demonstration to the satisfaction of the Board that the welfare of the public is protected by extension of the permit, with appropriate limitations and conditions.

13:42-3.5 Return of permit

All temporary permits are the property of the Board. The holder of a temporary permit shall return the permit to the Board no later than 10 days after its expiration or within 10 days of notice of suspension or revocation of the permit.

13:42-3.6 Responsibilities of applicant for one-year unsupervised and three- year supervised temporary permits

(a) An applicant for a one-year unsupervised or three-year supervised temporary permit shall have on file with the Board an application for licensure together with all supporting material as required by N.J.A.C. 13:42-2.1(a), with the exception of the two year supervised experience requirement.

(b) The applicant shall request in writing the issuance of a one-year unsupervised or three-year

supervised temporary permit to practice psychology until passing of the written and oral examinations and/or for the purpose of meeting the supervised experience requirement.

(c) A supervised permit holder shall see only those clients assigned to the permit holder by the supervisor.

(d) A supervised permit holder shall not set a professional fee or receive a professional fee from a client. A supervised permit holder may be compensated only through the supervisor or employing entity as provided in N.J.A.C. 13:42-4.6. An unsupervised permit holder may set and receive professional fees.

(e) A one-year unsupervised and three-year supervised permit holder shall limit client contact to no more than 20 client or group contact hours in any one week.

(f) A supervised permit holder shall not engage in unsupervised or independent practice.

(g) A supervised permit holder shall be responsible for the supervisor's compliance with the requirements of N.J.A.C. 13:42-4.4(a) through (c).

(h) A permit holder shall include his or her permit number on any printed representations of practice.

(i) A permit holder shall not advertise, except a one-year unsupervised permit holder may identify the location of his or her practice solely by name and address. A permit holder may indicate the degree held such as Ph.D., but any use of the words "psychology," "psychologist," or any of its derivatives shall be prohibited for any permit holder prior to licensure.

(j) Prior to commencement of client treatment, a one-year unsupervised permit holder shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:

1. Services are to be rendered by a permit holder who is not a licensed psychologist; and
2. Third party payors may not necessarily reimburse services rendered by a person not licensed by the Board.

(k) A one-year unsupervised and three-year supervised permit holder shall be prohibited from performing evaluations in custody cases.

SUBCHAPTER 4. SUPERVISION OF CANDIDATES FOR LICENSURE

13:42-4.1 Amount of supervision required

(a) An applicant for licensure shall be required to document the competent performance of at least two years of full time or full time equivalent supervised experience in the practice of psychology, at least one year of which shall have been completed subsequent to the applicant's receipt of his or her doctoral degree.

(b) The equivalent of one year of full time supervised experience shall be a minimum of 1,750 hours. The 1,750 hours shall include:

1. One thousand client contact hours completed in accordance with the limitations provided in N.J.A.C. 13:42-3.6(e);

2. Two hundred hours of supervision. At least 100 hours shall be individual face-to-face supervision; the remaining 100 hours may be individual or group supervision. The ratio shall be one hour of supervision for each five hours of client contact per week; and

3. Five hundred fifty hours in other work-related activities such as recordkeeping, consultations, report writing, etc.

13:42-4.2 Authorized supervisors

(a) Supervision of experience for licensure purposes, including experience in exempt settings, shall be rendered by:

1. A psychologist licensed in New Jersey for at least two years; or
2. For supervised experience obtained in another state, a psychologist licensed in that state for at least two years and who is eligible for licensure in New Jersey.

13:42-4.3 (Reserved)

13:42-4.4 Responsibilities of supervisor

(a) A supervisor shall obtain prior Board approval and shall provide the Board with a letter stating that the supervisor has agreed to enter into a supervisory arrangement with the permit holder.

(b) A supervisor shall supervise no more than three permit holders at any one time, except for good cause shown and at the discretion of the Board.

(c) Every six months and at the completion of the supervision, the supervisor shall document the supervised experience on a form provided by the Board. The information to be supplied on the form includes the dates during which the permit holder was under supervision, the nature of the cases assigned, and the proficiency rating earned by the permit holder.

(d) A supervisor shall ensure that the permit holder has, at all times, a current and valid Board permit or other required authorization.

(e) A supervisor shall provide adequate and timely evaluations, as required by the work setting, to employees, permit holders, students and others whose work is being supervised.

(f) Prior to a permit holder's commencement of client treatment, the supervisor shall obtain a written disclosure form, which shall be signed by the client and retained as part of the client record, acknowledging that the client has been informed that:

1. Services are to be rendered by a permit holder who is not a licensed psychologist; and
2. Third party payors may not necessarily reimburse services rendered by a person not licensed by this Board, notwithstanding supervision by a licensed psychologist.

(g) A supervisor shall retain full professional responsibility for setting fees, billing clients and collecting fees from clients consistent with the provisions of N.J.A.C. 13:42-10.10 and 10.11.

(h) A supervisor shall provide professional working conditions, constructive consultation and experience opportunities.

(i) A supervisor shall not condone or knowingly permit the permit holder to practice without supervision or independently.

(j) A supervisor shall not enter into supervisory arrangements involving a potential conflict of interest such as, but not limited to, arrangements with:

- i. Family members;
- ii. Those with whom the supervisor has close personal associations;
- iii. Those with whom the supervisor has financial relationships (such as creditor-debtor), other than as specifically permitted by N.J.A.C. 13:42- 4.6; or
- iv. Those with whom the licensee has a therapist/client relationship.

13:42-4.5 Supervision of individuals exempt from licensure

(a) A psychologist may supervise services of a psychological nature rendered in:

- 1. A private practice setting by a health care professional exempt from licensure pursuant to N.J.S.A. 45:14B-8; and
- 2. An exempt non-profit bona fide community organization as defined in N.J.A.C. 13:42-1.3.

(b) The supervisor shall ensure that the exempt supervisee complies with all Board regulatory requirements (including preparation of client records) and with accepted standards of professional and ethical practice of the exempt agency or exempt health care professional.

13:42-4.6 Financial arrangements between supervisor and supervisee

(a) The supervisor may segregate fees received from clients being treated by the supervisee in recognition of the fact that fees charged to such clients shall be less than the usual, reasonable and customary fees charged by the supervisor to his or her own clients.

(b) Financial arrangements between the supervisor and supervisee shall be reasonable and may take into account the special teaching arrangement which forms the context of the relationship. For example, the supervisor may:

- 1. Designate the supervisee as an "independent contractor under supervision," if permitted by tax authorities;
- 2. Designate the supervisee as a part-time employee; or
- 3. Agree to pay the supervisee the entirety of the client fees charged by the supervisor.

(c) The supervisor shall charge the supervisee separately, if at all, for the supervision itself or for ancillary costs such as rent for use of premises, equipment, malpractice insurance, etc.

SUBCHAPTER 5. EXAMINATION

13:42-5.1 Board-approved written examination; oral examination

(a) A candidate who has been admitted to sit for examination shall take the Examination for Professional Practice in Psychology sponsored by the Association of State and Provincial Psychology Boards. A passing score shall require 70 percent of the question items to be answered correctly.

- 1. This passing grade applies to all examinations taken on and after July 17, 1995.

(b) A candidate who passes the written examination shall then take an oral examination of his or her professional practice based on a work sample in accord with guidelines to be supplied to the candidate by the Board and as follows:

1. The candidate shall within 90 days of notification of successful completion of the written examination, present a current work sample representative of the candidate's present practice. For the purposes of this rule, "current" work sample is defined to mean a work sample either in progress or completed no more than one year prior to its submission for the oral examination. The dates of client service shall be specifically mentioned on the cover page. Exceptions may be granted for good cause shown.

2. The candidate shall identify the work sample by the area of the candidate's specialty.

3. The text of the work sample shall be typed and double spaced and shall not exceed 20 pages in length. All tests and protocols used as the basis for professional intervention shall be presented as appendices.

(c) The examiner(s) shall tape the oral examination for the purpose of creating a record. The candidate shall not tape the oral examination.

13:42-5.2 Examination review procedures

(a) A candidate who fails the written examination may request a handscoring of answer sheets, copy of individual answer sheet or role-feedback as available from the Professional Examination Service (PES). The candidate shall be responsible for payment of any fees required by the PES. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the letter of notification of examination results.

(b) A candidate who fails the oral examination may request a review of his or her oral examination tape. The candidate's written request for review must reach the Board's Executive Director within 45 days of the date of the letter of notification of examination results. The Executive Director will make the tape of the oral examination available to the candidate at the Board office on a mutually convenient date. Neither the candidate nor an agent of the candidate may tape the Board's copy of the oral examination tape during this or any review of the tape of the oral examination.

(c) Following review of the examination tape, a candidate who failed the oral examination may request reconsideration of the decision. The candidate's written request for reconsideration must reach the Board's Executive Director within 45 days of the date of the examination review. The request for reconsideration must be limited to no more than 5 8 1/2 inch by 11 inch sized pages, single spaced, with normal size type set and standard margins. Only one side of the page may be used.

(d) The Board shall grant a request for reconsideration only upon the candidate's showing of good cause establishing that the request is meritorious and made in good faith. Good cause for this purpose shall mean:

1. Proof of unusual circumstances surrounding the examination which adversely and significantly influenced the candidate's performance;

2. Proof that the scope of the examination conducted did not sufficiently address the candidate's professional work sample;

3. Proof of examiner bias against the candidate, the candidate's orientation or kind of work; or

4. Proof of a substantial and material error on the part of the examiners.

(e) If, upon review of the written request for reconsideration, the Board determines that the candidate has demonstrated good cause for reconsideration, the Board may designate a subcommittee to review the matter and make a recommendation to the Board after conducting such inquiry or investigation as the subcommittee deems necessary. The subcommittee shall subsequently present to the Board the following information in closed session: the basis for the request for reconsideration; the reasons

advanced by the applicant for changing the Board's previous decision; and the subcommittee's recommendation to sustain, modify, overturn or vacate the Board's previous decision and the reasons for that recommendation.

(f) The Board shall promptly mail to the candidate a copy of the Board's final decision and supporting reasons.

(g) A transcript of the oral examination may be prepared by a shorthand reporter, at the candidate's expense, only if the transcript is required for appellate review by the Superior Court.

13:42-5.3 Out-of-State psychologists; admittance to oral examination

(a) An out-of-State psychologist shall be admitted to take the oral examination in New Jersey provided the individual can demonstrate to the satisfaction of the Board that he or she:

1. Has taken the Board-approved written examination in another state;
2. Has passed the examination at the minimum level established by the Board and in effect at the time of application; and
3. Meets all other requirements for licensure, including submission of a work sample as defined in N.J.A.C. 13:42-5.1(b).

(b) An out-of-State psychologist who can demonstrate proof of meeting all requirements for licensure other than the Board-approved written examination shall be admitted to take the oral examination in New Jersey provided the individual can demonstrate to the satisfaction of the Board completion of 20 years of licensed, responsible and competent practice in another state.

(c) The Board shall not recognize licensing examinations other than the Board- approved examination sponsored by an individual state or other entity, if completed subsequent to January 1, 1980.

13:42-5.4 License without examination

A psychologist who holds a diploma from the American Board of Professional Psychology awarded by examination, and who meets all other requirements of New Jersey law, shall be licensed following satisfactory completion of an oral interview with the Board or designated member(s) thereof.

13:42-5.5 Subversion of the licensing examination process

(a) Any individual found by the Board to have engaged in conduct which subverts or attempts to subvert the licensing examination process may, at the discretion of the Board, have his or her scores on the licensing examination withheld or declared invalid, be found ineligible for licensure, be disqualified from the practice of the pertinent profession, and/or be subject to the imposition of other appropriate sanctions pursuant to N.J.S.A. 45:1- 22.

(b) Conduct which subverts or attempts to subvert the licensing examination process includes:

1. Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; taping, reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of the licensing examination; or selling, distributing, buying, receiving or having unauthorized possession of any portion of a current or future licensing examination;
2. Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the

licensing examination; or having in one's possession during the administration of the licensing examination any copying or taping equipment, or any books, notes, written or printed materials or data of any kind, other than the examination materials distributed; or

3. Conduct which violates the credentialing process, such as falsifying or misrepresenting educational credentials or other information required for admission to the licensing examination, impersonating an examinee, or having an impersonator take the licensing examination on one's behalf.

13:42-5.6 Failure of examination; when retaking permitted

(a) The written examination may be retaken at any subsequent scheduled examination session provided that all applicable requirements have been satisfied.

(b) The oral examination may be retaken only as follows:

1. First reexamination no sooner than six months after the first examination;
2. Second reexamination no sooner than one year after the date of the first reexamination;
3. Successive reexamination no sooner than one year after the date of the previous reexamination and after having shown proof of meeting any additional professional training which the Board may require.

13:42-6.1 Board fees

(a) Charges for examinations, licensure and other services are:

1. Application fee: \$125.00.
2. Examination fee: \$350.00 written, \$200.00 oral.
3. Initial license fee:
 - i. During the first year of a biennial license renewal period: \$300.00.
 - ii. During the second year of a biennial license renewal period: \$150.00.
4. License renewal fee, biennial: \$300.00.
5. Late renewal fee in addition to biennial renewal:
 - i. Up to 30 days late: \$75.00.
 - ii. Over 30 days late: \$150.00.
6. Reinstatement fee in addition to biennial renewal fee: \$ 300.00.
7. Temporary permit:
 - i. \$110.00 plus \$50.00 for each additional supervisor.
 - ii. Review of extension request for one-year and three-year permits, each: \$25.00.
8. Replacement wall certificate: \$50.00.
9. Verification of licensure: \$35.00.

10. Duplicate renewal certificate: \$25.00.

(b) It is the candidate's responsibility to see that all mandated fees reach the Board office as follows:

1. Application, examination, re-examination and reinstatement fees are required to initiate Board action in one's behalf.

2. An initial license fee is required upon notice of successful completion of candidacy and before issuance of a license.

3. A license renewal fee must reach the Board office by June 30 of the renewal year in order to avoid a late renewal fee.

4. A late renewal fee must reach the Board office by December 31st of the renewal year in order to avoid removal from the licensee lists and a reinstatement fee prior to reinstatement.

SUBCHAPTER 7. ACCEPTABLE PROFESSIONAL PRACTICE

13:42-7.1 Independent practice

(a) A licensee practicing independently may employ or otherwise remunerate the following individuals to render professional services only in circumstances where quality control of the employed practitioner's professional practice can be and is lawfully supervised and evaluated by the licensee:

1. Other licensed practitioners to render services within the scope of practice of each employee's license; and

2. Practitioners who are authorized to practice psychology under an exemption from licensure pursuant to N.J.A.C. 13:42-1.3.

(b) A licensee with a restricted or limited license to practice psychology as a result of a disciplinary action shall not employ a licensee or hire an independent contractor with an unrestricted or unlimited license to practice psychology.

(c) A licensee may employ ancillary non-licensed staff, limited to:

1. Clerical staff;

2. Permit holders;

3. Biofeedback technicians, as defined in N.J.A.C. 13:42-7.3;

4. Neuropsychometric technicians, as defined in N.J.A.C. 13:42-7.4; and

5. A person engaged in the practice of alcohol, drug abuse or gambling intervention, prevention or treatment who is certified and providing such services in a private setting supervised by the licensee.

(d) Any additional types of employees other than those in (c) above may be employed within the professional practice only with the advance review and approval of the Board.

13:42-7.2 Partnership, professional service corporation, or limited liability entity

(a) A licensee shall not practice psychology in a general business corporation except as provided in N.J.A.C. 13:42-7.5. A licensee may practice in any of the following business entities: partnership, professional service corporation, limited liability company, or limited liability partnership as long as the owners (partners, shareholders, members) of the entity consist solely of New Jersey licensed health care professionals. A licensee may practice in a business entity described in this section which itself is owned by one or more of the entities described so long as all of the owners of such entities are New Jersey licensed health care professionals and as allowed by law pursuant to N.J.S.A. 42:2B-1 et seq. In all business entities described in this section, each licensee who is an owner shall retain authority to exercise his or her own professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of the licensee's individual clients.

(b) The professional services offered by each practitioner, whether a partner, shareholder, or member, shall be the same or shall be in a closely allied professional health care field.

(c) If the scope of practice authorized by law for each such person differs, any document used in connection with professional practice, including, but not limited to, professional stationery, business cards, advertisements of listings and bills, shall designate the field to which such person's practice is limited.

(d) The term "Associates" in the name of a professional office connotes an actual group enterprise such as a professional association or partnership. The term "Associates" shall not be utilized to refer to individuals sharing office expenses or rental space but practicing independently of each other or having the relationship of independent contractor.

13:42-7.3 Biofeedback; employer of biofeedback technician

(a) A licensed psychologist may perform or directly supervise the performance of appropriate biofeedback services in a clinical setting as a component of psychological services. Prior medical evaluation and supervision are not required for this psychological service.

(b) A licensed psychologist shall not diagnose, or offer to provide independent biofeedback treatment for a medical condition, a complaint of pain, or other significant physical symptom or condition that has not been medically evaluated. Following such evaluation, psychological biofeedback treatment may be offered in accordance with (a) above or (c) below.

(c) A licensed psychologist may, in a clinical setting, offer therapeutic or palliative biofeedback services in consultation with a licensed physician, as a component of an integrated psychological treatment program for a medically diagnosed condition reasonably believed to be amenable to such treatment.

(d) For purposes of this section, "biofeedback" means the application of bio- regulation procedures to the management of cognitive and physiological status. The feedback may encompass smooth muscle, striated muscle, cardiac muscle, brain wave, blood pressure, skin conduction and other physiological measures.

(e) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.

(f) A licensee with specialized training in biofeedback may employ a biofeedback technician on the office premises, as appropriate to the primary practice of the employer, only under the following circumstances:

1. The licensee shall provide instruction to the technician ; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;

2. The licensee shall provide direct supervision to the technician, as defined in (e) above; and

3. The activities of the technician shall be limited to:

- i. Operating machinery for monitoring feedback, including positioning of the monitoring equipment; and

- ii. Providing instruction in the use of the machinery to the client.

13:42-7.4 Employer of neuropsychometric technician

(a) For purposes of this section, "direct supervision" means that the licensee shall be constantly accessible, either on-site or through electronic communication, and available to render assistance when required and that the licensee shall retain full professional responsibility for client care and treatment.

(b) A licensee may employ a neuropsychometric technician as an assistant, for the purpose of administering certain classes of sensory, motor and other measures, only under the following circumstances:

1. The licensee shall provide instruction to the technician ; ascertain that the technician has received education and training appropriate for the work assigned; ensure that the technician obtains continuing education credits consistent with standards in the field; and regularly direct, supervise and monitor the technician's work;

2. The licensee shall provide direct supervision to the technician, as defined in (a) above; and

3. The activities of the technician shall be limited to the administration of neuropsychological tests which have specific mechanical administration procedures and which do not require interpretation, querying of the examinees about individual items, or other judgments.

(c) The role of the technician is that of a paraprofessional assistant in test administration, and any deviation from that role shall be deemed the unauthorized practice of psychology.

(d) Specifically excluded from the scope of activities of the technician are administration of individual intelligence tests and projective techniques, which may be given only by a licensed practicing psychologist, a permit holder under supervision, or a person doing work of a psychological nature in an exempt setting.

13:42-7.5 Shareholder or employee of a general business corporation

(a) A licensee may offer health care services as an employee of a general business corporation in this State only in one or more of the following settings. Any such setting shall have a designated director of psychological services or a medical director licensed in this State who is regularly on the premises and who (alone or with other persons authorized by the Department of Health, if applicable) is responsible for licensure verification, credentialing and quality control of the provision of psychological services.

1. The corporation is licensed by the New Jersey Department of Health as a health maintenance organization, hospital, long or short term care facility, or ambulatory care facility. Alternatively, the corporation may be another type of health care facility or corporate health care provider accredited by the Joint Commission on Accreditation of Health Care Organizations. The above accredited corporate employers may include a facility which is a component part of a for-profit corporation employing or otherwise remunerating licensed psychologists, provided that the health care facility/provider has a formal credentialing process and quality control procedures, and service providers are supervised by a psychologist or physician licensed in this State and regularly on the premises.

2. The corporation is not in the business of offering treatment services to the public but maintains a clinic for the purpose of providing psychological services to employees

and/or for monitoring the health environment of employees. The licensee rendering care or evaluation in this setting shall comply with the provisions of N.J.A.C. 13:42-8 regarding preparation, maintenance and release of treatment and health monitoring records;

3. The corporation is a non-profit corporation sponsored by a union, social, religious or fraternal organization providing health care services to members only; and/or

4. The corporation is an accredited educational institution which maintains a medical or psychological service clinic for health care service to students and faculty.

(b) A licensee may also have an equity or employment interest in a general business corporation which offers to contract with a licensed practitioner or professional service corporation to provide services exclusively of a non- professional nature such as routine office management, hiring of non- professional staff, provision of office space and/or equipment and servicing thereof, and billing services. The general business corporation shall make no determination regarding establishment of client fees or modification or waiver thereof in an individual case and shall make no representations to the public of offering, under its corporate name, health care services which require licensure.

(c) A licensee employed or having an equity interest in any of the practice forms listed in (a) and (b) above shall terminate such employment or sever professional affiliation upon acquiring personal knowledge that the entity regularly fails to provide or observe the quality assurance mechanisms listed in N.J.A.C. 13:42-7.7 and refuses, upon request, to implement such mechanisms. A licensee terminating employment or affiliation with a general business corporation for reasons required by this section shall so notify the Board.

(d) Licensees who have been providing professional services in a business format which is inconsistent with the provisions of this section shall complete a transfer to an acceptable practice form as soon as possible but no later than May 1, 1994.

13:42-7.6 Managed health care plans

(a) For purposes of this section, "managed health care plans" include, but are not limited to, plans involving wholly or partially pre-paid medical/psychological services. By way of example, these include plans commonly described as health maintenance organizations, preferred provider organizations, competitive medical/psychological plans, individual practice associations, or other similar designations.

(b) A licensee may enter into a plan agreement which provides interim remuneration to licensees by making provisional allocation of percentages of plan-member fees, whether denominated as reserves, pools, withholds, holdbacks, etc., for the purpose of funding all portions of the health services plan.

(c) A licensee may participate in a plan which requires a purchase of shares for the purpose of providing start-up funds, provided that any profits of the plan are paid solely in accordance with the principles listed in this section and the licensee complies with the following professional requirements:

1. The licensee retains authority at all times to exercise professional judgment within accepted standards of practice regarding care, skill and diligence in examinations, diagnosis and treatment of each client;

2. The licensee retains authority at all times to inform the client of appropriate referrals to any other health care providers:

- i. Whether or not those persons are provider-members of the plan; and
 - ii. Whether or not the plan covers the cost of the non-member provider's services to the client;
3. Plan clients are informed that they may be personally responsible for the cost of treatment by a provider who is not a member of the plan or for treatment which the plan administration does not approve; and
4. Plan clients are informed of the financial arrangements between the licensee and the plan, including financial incentives and disincentives established by the plan affecting availability or provision of treatment or other psychological services to plan members.
- (d) A licensee who is not a full or regular member of a managed health care plan may contract with a plan to render services to an insured person referred by the plan, provided that the licensee retains the authorities listed in (c)1 through 4 above.
- (e) The licensee shall submit the bill for services rendered in one of the following ways:
- 1. To the client-insured;
 - 2. To the managed health care plan, but only if billing is on a per-task or time unit basis and the plan is a professional organization established consistent with N.J.A.C. 13:42-7.1 or 7.2 or a licensed health care corporation as defined in N.J.A.C. 13:42-7.5(a)1.
 - 3. To the employer/administrative entity of the client-insured if the employer is a wholly or partially self-insured health insurance plan or a multiple employer welfare arrangement (MEWA).

13:42-7.7 Conduct of professional practice; quality control

- (a) A licensee shall establish policies and procedures with respect to licensed or exempt personnel who are employed by or under the supervision of the licensee. The policies and procedures shall include, but need not be limited, to the following:
- 1. Designation of a licensed practitioner responsible for:
 - i. Hiring professional staff and verifying current licensing credentials, permits or other educational/training credentials required by law or pertinent agency rule (for example, recertifications, continuing professional education, current biennial registration or permits, etc.); and/or
 - ii. The professional propriety of billing and of advertising or other representations;
 - 2. Identification of the nature of the psychological services which shall be offered at the practice location;
 - 3. Policies for maintenance, registration and inspection of professional equipment;
 - 4. Standards for recordkeeping as to client records, billing records, and such other records as may be required by law or rule;
 - 5. Policies for security, including confidentiality of client records; and
 - 6. Procedures for periodic audit of client records and of professional services to assure quality professional care on the premises.

13:42-7.8 Real estate arrangements

(a) A licensee may be an owner, investor or lessor in real estate utilized for the conduct of a professional practice, provided that rent, dividends or any other forms of remuneration are received solely on the basis of the investment or fair market value, as applicable to the circumstances.

(b) A licensee may lease space to or from another licensed health care professional to whom clients are referred only where rent is a fixed fee determined by the fair market value, or less, and is for a regular term and not for sporadic use of the space.

(c) A licensee may lease professional space from a commercial entity on any arrangements consistent with standard business practice in the community, provided the arrangements do not affect the licensee's professional discretion in matters including choice of clients, professional services offered, or fees.

(d) The establishment of any lease, investment or other commercial relationship for the conduct of professional practice other than as set forth in this section shall require Board approval for good cause shown.

SUBCHAPTER 8. CLIENT RECORDS: CONFIDENTIALITY

13:42-8.1 Preparation and maintenance of client records

(a) A licensee shall prepare and maintain separately for each client a permanent client record which accurately reflects the client contact with the licensee whether in an office, hospital or other treatment, evaluation or consultation setting.

(b) A licensee shall make entries in the client record contemporaneously with the services provided. A licensee may dictate an entry for later transcription, provided the transcription is dated and identified as "preliminary" until the licensee reviews the transcription and finalizes the entry in the client record.

(c) The licensee shall include in the client record material pertinent to the nature and extent of the professional interaction, for example:

1. The location of treatment, evaluation or consultation;
2. The client name, address and telephone number;
3. The client complaint on intake;
4. Medical history recognized as of potential significance;
5. Past and current medications;
6. Significant social history;
7. Findings on appropriate examination;
8. Raw data and interpretation of tests administered;
9. Current functional impairments and rating levels thereof;
10. A diagnostic impression;

11. Contemporaneous and dated progress or session notes including specific components of treatment, evaluation or consultation;

12. Dates of all treatment, evaluation or consultation sessions;

13. An evaluation of progress (if applicable);

14. A prognosis;

15. The client identity on each page;

16. Fees charged and paid;

17. The identity of each provider of treatment, evaluation or consultation (and supervisor, if any); and

18. If services are rendered by a permit holder, the written disclosure form signed by the client as required by N.J.A.C. 13:42-4.5(f).

(d) The client record shall contain information regarding referrals to other professionals together with reports and records provided by other professionals and integrated into the client's treatment, evaluation or consultation report.

(e) A licensee may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee. Any other alteration of records shall be deemed professional misconduct.

(f) When records are to be maintained as confidential, the licensee shall establish and maintain a procedure to protect such records from access by unauthorized persons.

(g) The licensee shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law.

(h) The licensee shall establish procedures for maintaining the confidentiality of client records in the event of the licensee's relocation, retirement, death, or separation from a group practice, and shall establish reasonable procedures to assure the preservation of client records which shall include at a minimum:

1. Establishment of a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;

2. Publication of a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's practice, at least once each month for the first three months after the cessation; and

3. Making reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.

13:42-8.2 Use of personal or other computer to prepare client records

(a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:

1. Contains an internal permanently activated date and time recordation for all entries;
 2. Automatically prepares a back-up copy of the file; and
 3. Is designed in such manner that, after the licensee "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.
- (b) Notwithstanding the permanent status of a prior entry, the licensee may make a new entry at any time and may indicate correction to a prior entry.
- (c) The licensee shall include in the client record at least two forms of identification ; for example, name and record number or any other specific identifying information.
- (d) The licensee shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the licensee responsible for the practice shall assure that each such person obtains a CPC and uses the program in the same manner.
- (e) A licensee wishing to continue a system of computerized client records which does not meet the requirements of this section shall promptly initiate arrangements for modification of the system, which must be completed by November 1, 1994. In the interim, the licensee shall, on the date of the first treatment of each client treated subsequent to November 1, 1993, print out a hard copy of the entire computer recorded client record. The printout shall be dated and initialled by the licensee. Thereafter, a hard copy shall be prepared for each subsequent visit, continuing to the date of the changeover of computer program, with each page initialled by the licensee. The initial printout and the subsequent hard copies shall be retained as a permanent part of the client record.

13:42-8.3 Access to copy of client record

- (a) For purposes of this section, "authorized representative" means, but is not necessarily limited to, a person designated by the client or a court to exercise rights under this section. An authorized representative may be the client's attorney or an agent of a third party payor with whom the client has a contract which provides that the third party payor be given access to records to assess a claim for monetary damages or reimbursement. If the client is a minor, a parent or guardian who has custody (whether sole or joint) will be deemed to be an authorized representative.
- (b) A licensee may require the record request to be in writing. No later than 30 days from receipt of a request from a client or duly authorized representative, the licensee shall provide a copy of the client record and/or billing records, including reports relating to the client. Limitations on this requirement are set forth in (e) and (f) below and in N.J.A.C. 13:42-9.
- (c) The licensee may elect to provide a summary of the record, as long as the summary adequately reflects the client's history and treatment, unless otherwise required by law.
- (d) A licensee may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.
- (e) This section shall not require a licensee to release to a minor client's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse.

(f) A licensee may withhold information contained in the client record from a client or the client's guardian if, in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare.

1. That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:

- i. The client's attorney;
- ii. Another licensed health care professional; or
- iii. The client's health insurance carrier (except as may be limited by N.J.A.C. 13:42-9).

(g) Records maintained as confidential pursuant to N.J.A.C. 13:42-8.1(c) shall be released:

- 1. If requested or subpoenaed by the Board or the Office of the Attorney General in the course of any Board investigation;
- 2. Pursuant to an order of a court of competent jurisdiction;
- 3. Except as limited by N.J.A.C. 13:42-8.4, upon a waiver of the client or an authorized representative to release the client record to any person or entity, including to the Violent Crimes Compensation Board; or
- 4. In order to contribute appropriate client information to the client record maintained by a hospital, nursing home or similar licensed institution which is providing or has been asked to provide treatment to the client.

(h) The licensee's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment expenses. The licensee may charge reasonable fees for completion of reports other than health insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.

(i) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, or for use in judicial proceedings, the licensee shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee may, however, require advance payment for a report prepared for services as an expert witness.

13:42-8.4 Access by a managed health care plan to information in client record

(a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan, or a multiple employer welfare arrangement (MEWA), including a managed health care plan, a licensee shall make available, on request of the client or duly authorized representative with the client's consent, all information required, but only pursuant to N.J.A.C. 13:42-11.4.

(b) A psychologist whose client has explicitly waived the psychologist-client privilege established by N.J.S.A. 45:14B-28 may release requested information deemed professionally appropriate, not limited by the constraints of the Peer Review Law, to a third-party payor whose benefit plan is qualified under the Federal Employee Retirement Income Security Act (ERISA); that is:

1. The plan of a self-insured employer or an entity providing administrative services to that employer for the purposes of determining entitlement to benefits; or

2. An employer's "stop-loss" plan (i.e., a plan in which an employer self- insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company).

13:42-8.5 Confidentiality

(a) A licensee shall preserve the confidentiality of information obtained from a client in the course of the licensee's teaching, practice or investigation. However, the licensee shall reveal the information to appropriate professional workers, public authorities and the threatened individual(s) or their representatives only, if in the licensee's judgment, exercised in accordance with the standards of the profession, any one of the following circumstances occur:

1. There is a clear and imminent danger to the individual or the public;
2. There is probable cause to believe that an identifiable potential victim of a client is likely to be in danger; or
3. Release of such information is otherwise mandated by law, such as, but not limited to, N.J.S.A. 2A:62A-17.

(b) A licensee may discuss the information obtained in clinical or consulting relationships, or in evaluating data concerning children, students, employees and others, only for professional purposes and only with persons clearly connected with the case.

(c) A licensee may reveal, in writing, lectures or other public forums, personal information obtained during the course of professional work only as follows:

1. With prior consent of the clients or persons involved; or
2. Where the identity of the client or person involved is adequately disguised.

(d) A licensee may share confidential communications with other parties interested therein, in a non-public forum, only where the original source and other persons involved have given their express permission to do so.

(e) A licensee may reveal the identity of research subjects only if the subjects have granted explicit permission.

(f) A licensee may release confidential documents, testimony or other information contained in the client record only in accordance with the provisions of N.J.A.C. 13:42-8.3 and this section.

SUBCHAPTER 9. ADVERTISING

13:42-9.1 Definitions

For the purposes of this subchapter, the following terms shall have the indicated meanings unless the context clearly indicates otherwise:

"Advertisement" means an attempt directly or indirectly by publication, dissemination or

circulation in print, electronic or other media which directly or indirectly induces or attempts to induce any person or entity to purchase from a Board licensee, or enter into an agreement to purchase, services, treatment or goods related thereto.

"Board licensee" means any professional licensee of the State Board of Psychological Examiners.

"Electronic media" include, but are not limited to, radio, television, telephone, Internet and other electronic means of communication.

"Professional service" means a service which a Board licensee or professional association performs or lawfully authorizes a person under supervision to perform.

"Print media" includes newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, billboards, signs, direct mail, matchcovers, business cards, stationery and other items disseminated by means of the printed word.

"Range of fees" means a statement of fees containing an upper and lower limit on the fees charged for services or goods offered by a Board licensee.

13:42-9.2 Advertising: general requirements

(a) A Board licensee (but not a permit holder) may provide information to the public by advertising in print or electronic media.

(b) A licensee shall be able to substantiate the truthfulness of any material, objective assertion or representation set forth in an advertisement, when requested by the Board to do so.

(c) A licensee who is a principal, partner or officer of a firm or entity identified in an advertisement which offers psychological services or goods shall be responsible for the form and content of any advertisement disseminated by or on behalf of a licensee affiliated with the firm.

(d) A licensee shall assure that an advertisement does not misrepresent, suppress, omit or conceal a material fact. Omission, suppression or concealment of a material fact includes use of any print, language or format which directly or indirectly obscures a material fact under circumstances where the licensee knows or should know that the omission is improper or prohibits a prospective client from making a full and informed judgment on the basis of the information set forth in the advertisement.

13:42-9.3 Minimum content of advertising

(a) All licensee advertisements and public representations, including advertisements in a classified directory, business card and professional stationery, but not including an office entry sign, shall contain the following:

1. The licensee's name and license number; and
2. The address and telephone number of the licensee's practice location.

(b) If the advertisement utilizes a business name, then the name and license number of at least one licensee responsible for the psychological service practice in the facility shall appear in the advertisement.

(c) A licensee may petition the Board for waiver of the requirement to list street address for good cause. A licensee shall submit a request for a waiver in writing which shall detail the reason(s) for the request which may include, but is not limited to, the maintenance of personal or family safety.

13:42-9.4 Use of professional credentials and certifications

(a) A licensee shall accurately and objectively represent his or her competence, education, training and experience in all advertisements and professional representations.

(b) Advertisements which include information on professional credentials shall contain the highest academic degrees attained relating to the practice of psychology and shall refer only to degrees obtained from an accredited academic institution or an academic institution acceptable under the rules of the New Jersey State Department of Higher Education.

(c) A licensee may include in an advertisement degrees earned from bona fide accredited educational institutions. A licensee also may include in an advertisement, certifications obtained from bona fide accrediting bodies so long as the name of the accrediting body is identified and the discipline in which the certification was obtained is specified in the advertisement.

(d) Nothing in this section shall preclude any truthful and non-deceptive statement in regard to education or experience in a particular area of psychology.

13:42-9.5 Advertising making reference to or setting forth a fee; required disclosures

(a) Advertising making reference to or setting forth a fee shall be limited to that which contains a fixed or a stated range of fees for specifically described professional services.

(b) Advertising making reference to or setting forth a fee shall include the following disclosures:

1. All relevant and material variables and considerations which are ordinarily included in the advertised services so that the fee will be clearly understood by prospective clients. In the absence of such disclosures, the stated fees shall be presumed to include everything ordinarily required for the advertised services;

2. A specific delineation of additional services contemplated and the fee to be charged therefor. In the absence of such disclosures, the licensee shall be prohibited from charging an additional fee for the advertised service; and

3. The time period during which the advertised fee will remain in effect. In the absence of such disclosure, the advertisement shall be deemed to be effective for 30 days from the date of the advertisement's initial publication.

(c) The advertisement of a fee shall not preclude downward adjustment or waiver of a fee between the professional and the client in individual circumstances.

13:42-9.6 Use of testimonials

(a) A licensee may use an advertisement containing either a lay or an expert testimonial provided that:

1. The testimonial is based upon the testimonial giver's personal knowledge or

experience obtained from a past, completed provider relationship with the licensee or upon the testimonial giver's direct personal knowledge of the subject matter of the testimonial; and

2. The licensee obtains, prior to the use of the testimonial, a signed, notarized statement and release indicating the testimonial giver's willingness to have his or her testimonial used in the advertisement.

(b) A layperson's testimonial shall not attest to any technical matter beyond the testimonial giver's competence to comment upon.

(c) An expert testimonial shall be rendered only by an individual possessing specialized expertise sufficient to allow the rendering of a bona fide statement or opinion.

(d) A licensee shall be able to substantiate any objective, verifiable statement of fact appearing in a testimonial. The failure to do so, if required by the Board, may be deemed professional misconduct.

13:42-9.7 Prohibited types or methods of advertising

(a) A licensee shall not make any statement or claim or make use of any professional format which is false, fraudulent, misleading or deceptive with regard to the performance of professional services or accepted standards of professional practice.

(b) A licensee shall not use the word "doctor" or an otherwise incomplete and misleading designation when offering to perform professional services without also indicating that the licensee is a psychologist.

(c) A licensee shall not guarantee that satisfaction or a cure will result from the performance of professional services.

(d) A licensee shall not claim or use any secret or special method of treatment and/or diagnostic technique which the licensee refuses to divulge to the Board.

(e) A licensee shall not make claims of professional superiority with regard to services or goods offered or with regard to apparatus, equipment or technology utilized unless the licensee can substantiate such claims.

(f) A licensee shall not communicate any fact, data or information which may identify a client without the client's written consent.

(g) A licensee shall not offer or promote a professional service which the licensee knows or should know is beyond the licensee's ability to perform.

(h) A licensee shall not permit an advertisement to contain any technique or communication which appears to intimidate, exert undue pressure or unduly influence a prospective client.

(i) A licensee shall not engage, either directly or indirectly through an agent, employee or representative, in any in-person solicitation with a prospective client, except that a licensee may offer to a business entity, or its representative, psychological services to be provided to a class of persons.

13:42-9.8 Retention of advertisements

(a) The licensee shall retain, for a period of three years from the date of initial publication

or dissemination, a copy of every advertisement appearing in print media as well as a video or audio tape of every advertisement communicated by electronic media. All advertisements in the licensee's possession shall indicate the accurate date and place of publication.

(b) A licensee who advertises through the use of testimonials shall maintain documentation relating to the testimonial for a period of three years from the date of the last use of the testimonial. Documentation shall include, but not be limited to:

1. The name, address and telephone number of the testimonial giver identified in the advertisement;
2. The type and amount or value of compensation; and
3. The notarized statement and release required pursuant to N.J.A.C. 13:42-9.6(a)2.

(c) The licensee shall make copies of all advertisements and documentation concerning testimonials available for review upon request by the Board or its designee.

13:42-9.9 Misleading implications of licensure

(a) A person not licensed under the Practicing Psychology Licensing Act is prohibited from implying licensure under the Act by using a title or description which, when used in combination with other circumstances, would lead a reasonable person to think that the individual is a licensed psychologist or is authorized to perform professional services which only a licensed psychologist can offer. Examples of such conduct, whether for recompense or not, include:

1. Representing that he or she has:
 - i. A graduate degree or is a candidate therefor in psychology or an allied field;
 - ii. Membership in psychological organizations;
 - iii. Training or certification in applied psychological methods; or
 - iv. Professional association and identification with a licensed psychologist, unless the individual is the holder of a duly authorized and valid Board permit or is otherwise duly authorized to engage in a health care profession with a psychologist; or
2. Using names or professional or occupational titles including "counselor," "psychotherapist," "therapist," "analyst," and related terms or forms unless clearly qualified by reference to another profession or group exempt from licensure under the Act pursuant to N.J.S.A. 45:14B-8 and N.J.A.C. 13:42-1.5 or other applicable law.

SUBCHAPTER 10. GENERAL OBLIGATIONS OF A LICENSEE

13:42-10.1 Posting of practice authorization and notification of availability of fee information

(a) Every licensee shall prominently display in every place of conducting independent practice the following notice:

(Name of Individual) is licensed by the Board of Psychological Examiners, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Board of any complaint relative to the practice conducted under this license at the

Division of Consumer Affairs, Board of Psychological Examiners, Post Office Box 45017,
124 Halsey Street, Newark, New Jersey 07101.

(b) Every licensee shall post a conspicuous notice in the waiting room stating:
"INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU ON REQUEST."

13:42-10.2 Notification of change of address; service of process

(a) Each licensee and permit holder shall notify the Board, in writing, within 30 days of any change in the address on file with the Board and shall specify whether the address is a residence or employment address.

(b) Service of an administrative complaint or other process initiated by the Board, the Attorney General or the Division of Consumer Affairs at the address on file with the Board shall be deemed adequate notice for the commencement of any inquiry or disciplinary proceeding.

13:42-10.3 Prohibition on unethical referrals

(a) A licensee shall not refer a client to a health care service in which the licensee has any financial or significant beneficial interest. This shall not prohibit professionally justified referral for treatment or services to an employed associate or another practitioner within the licensee's bona fide group practice or managed health care plan.

(b) A licensee shall not prescribe goods or devices which the licensee sells or leases to the client, except as follows:

- i. The goods or devices are an integral part of the professional treatment for that client;
- ii. The item and its fee (if any) are specified on the billing statement under the licensee's professional office name; and
- iii. Any fee is set at a level which does not exceed a recoupment of the reasonable actual expense to the licensee for provision of the goods or devices. The burden of justifying the fee shall be on the licensee.

13:42-10.4 Professional responsibilities to the Board, other regulatory authorities, or the public

(a) Where not otherwise specified in this section, the term "licensee" includes holders of licenses and holders of temporary permits issued by the Board.

(b) A licensee shall meet professional responsibilities to the Board, to other regulatory authorities, and to the public as determined by accepted standards of practice, law or rules.

(c) A licensee shall respond within 30 days or sooner, as specified, to written communication from the Board, the Attorney General or the Director of the Division of Consumer Affairs and shall make available all records required with respect to a complaint from a client or as otherwise deemed necessary regarding the licensee's conduct. The response period commences on the date of the communication to the licensee's last reported address.

(d) A licensee shall maintain competence consistent with professional responsibilities, including the following:

1. A licensee shall remain abreast of standards of practice in the profession by means of securing continuing education such as training, experience or counsel and through professional journals;

2. A licensee-teacher shall base academic instruction primarily upon material the licensee reasonably believes to be accurate, current and scholarly;

3. A licensee shall obtain competent professional assistance in order to determine whether to voluntarily suspend, terminate or limit the scope of the licensee's professional and/or scientific activities which are foreseeably likely to lead to inadequate performance or harm to a client, colleague, student or research participant;

4. A licensee shall refuse to engage in or condone hiring, promotion or training practices that are inhumane or that result in illegal or otherwise unjustifiable discrimination on the basis of race, handicap, age, gender, sexual preference, religion or national origin; and

5. A licensee shall make reasonable use of professional, technical and administrative resources that best serve the interests of consumers. A psychologist is responsible for recognizing his or her areas of competence in the profession and when to refer appropriately to practitioners of related or other professions.

13:42-10.5 Maintaining competence in testing situations

(a) A licensee who utilizes psychometric instruments in assessment shall be required to have completed foundational course work in psychometric theory/tests and measurement and graduate level course work in individual assessment. Completion of a workshop or continuing education in the use of a specific test shall not be substituted for the required foundational course work.

(b) A licensee responsible for development and standardization of psychological tests and other assessment techniques shall utilize established scientific procedures and observe relevant professional standards.

(c) Psychometric instruments shall be administered in the manner prescribed in the technical manual which accompanies the psychometric instrument, unless an extenuating circumstance exists, such as an unforeseen or unusual circumstance pertaining to a particular client, in which case psychometric instruments may be administered by alternative procedures. If a test is administered by alternative procedures, then the impact of such deviations on reliability, validity, or fairness shall be addressed in the report. While it is recognized that there are differing schools of thought in the psychological literature regarding issues of test fairness, use of appropriate norms, and appropriate item content for various subgroups, licensees shall be responsible for employing psychometric instruments in a nondiscriminatory manner and with sensitivity to cultural differences. Licensees shall present the results of assessments and their interpretations in such a way as to minimize the potential for misuse by others.

(d) A licensee shall make reasonable efforts to avoid use of obsolete testing measures. This subsection shall not be construed, however, to require the use of a more recent edition of an instrument if, in the licensee's professional judgment, a previous version is more appropriate for the particular assessment.

(e) Licensees who employ computerized narrative reports shall have the knowledge, skill and ability to interpret the scales of the instrument independently. Licensees shall not rely on the interpretations contained in a computerized narrative report as though the report were individually tailored specifically for that examinee. Statements in the narrative shall be evaluated in the context of the facts of the case and the licensee's own impressions of

the test subject. Licensees shall be responsible for conclusions and recommendations based on computerized narrative reports and shall not be relieved of such responsibility by the use of a computerized narrative report.

(f) A licensee shall not sponsor or supervise the use of psychological assessment techniques by persons who are not in an appropriate psychological or closely-related field or who are otherwise unqualified.

(g) A licensee shall administer or supervise the administration of all testing materials on premises and consistent with accepted standards of practice.

13:42-10.6 Research

(a) A licensee shall observe research requirements consistent with accepted standards of practice including, but not limited to, the following:

1. A licensee shall minimize the possibility that research findings will be misleading and shall not knowingly publish misleading or false findings;

2. A licensee shall provide thorough discussion of the limitations of the published data and alternative hypotheses, especially where the work touches on social policy or might reasonably be construed to the detriment of persons in specific age, sex, ethnic, socio-economic or other identifiable social groups;

3. A licensee shall reveal contrary or disconfirming data or acknowledge the existence of alternative hypotheses and explanations of the findings following reasonable and customary efforts at research of the topic;

4. A licensee shall acknowledge the authors of work in proportion to their professional contribution; and

5. A licensee shall treat research participants ethically and ensure ethical treatment of them by collaborators, assistants, students and employees.

13:42-10.7 Reporting of violations of other licensees

(a) A licensee is encouraged to address violations of law, rule or accepted standards of practice by other licensees of this Board. A licensee who discovers apparent violations by another licensee may attempt to rectify the situation informally or may confidentially notify the Board or a local, State or national professional society for follow-up.

(b) Notwithstanding the provision for voluntary reporting set forth in (a) above, a licensee shall promptly notify the Board when in possession of information which reasonably indicates that another licensee has demonstrated an impairment, gross incompetence or unprofessional conduct which would present an imminent danger to a client or to the public health, safety or welfare.

(c) Notwithstanding the provisions of (b) above, when a licensee in the course of a professional therapeutic relationship with a client who is not a licensee of the Board obtains information from the client about another licensee's suspected unlawful conduct, the treating licensee shall report the information only with the written permission of the client.

(d) Notwithstanding the requirements of (b) above, a licensee who acquires knowledge of impairment, incompetence or unprofessional conduct in the course of treating a client-psychologist or an individual exempt from licensure pursuant to N.J.A.C. 13:42-1.3 and

N.J.S.A. 45:14B-8 shall not be obligated to notify the Board if:

1. The treating psychologist reasonably believes that the improper conduct has ceased and that the treatment is preventing a recurrence of the impairment, incompetence or professional misconduct; or

2. The treating psychologist has reasonable cause to believe that the incompetent psychologist or exempt professional is currently receiving professional supervisory and educational measures which are reasonably likely to protect clients against gross incompetence.

(e) A licensee acquiring privileged information of drug or alcohol abuse in the course of treating a client-psychologist or exempt professional in a substance abuse treatment program governed by Federal law shall, as required by Federal law, first obtain authorization for release of such information from a court of competent jurisdiction or shall obtain the client's written consent to release the information.

(f) A licensee is not exempt from reporting any information otherwise mandated by law, such as, but not limited to, P.L.1974, c.119, reporting of an abused child as defined in N.J.S.A. 9:6-8.8 et seq.

13:42-10.8 Professional interactions with clients

(a) A licensee shall not abandon or neglect a client under and in need of professional care without making reasonable arrangements for the continuation of such care or offering to help the client find alternative sources of assistance.

(b) A licensee shall not abandon or neglect professional employment by a group practice, hospital clinic or other health care facility without reasonable notice or under circumstances which would be expected to seriously impair the delivery of professional care to clients.

(c) A licensee shall not exercise undue influence on the client including the promotion of services by the licensee or others.

(d) A licensee shall not willfully harass, abuse or intimidate a client regarding delivery of client services, either physically or verbally.

(e) A licensee shall not order excessive tests, treatment or use of treatment facilities not warranted by the condition of the client.

(f) A licensee shall terminate a clinical or consulting relationship when it is reasonably clear that the client is not benefiting from it. In such instances, the licensee shall offer to help the client find alternative sources of assistance.

(g) A licensee shall not participate in assessment and/or testing in which the client is not advised, in terms the client can understand, of the nature and purposes of the test and test results unless the client agrees in advance to have the test results released to a specified third party.

13:42-10.9 Sexual misconduct

(a) As used in this section, the following terms have the following meanings unless the context indicates otherwise:

"Client" means any person who is the recipient of a professional psychological service

rendered by a licensee. "Client" for purposes of this section also means a person who is the subject of professional examination even if the purpose of that examination is unrelated to treatment.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the client's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client's body into or near the genital, anal, or other opening of the other person's body.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of psychological services, and that is either unwelcomed, offensive to a reasonable person, or creates a hostile work place environment, and the licensee knows, should know, or is told this, or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act, or multiple acts, and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student, or supervisee whether or not such individual is in a subordinate position to the licensee.

(b) A licensee shall not engage in sexual contact with a current client, a former client to whom psychological services were rendered within the immediately preceding 24 months, a current student, a direct supervisee or supervisor, or a research subject.

(c) In circumstances where any of the persons listed in (b) above are, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.

(d) A licensee shall not engage in sexual harassment in a professional setting (including, but not limited to, an office, hospital or health care facility) or outside of the professional setting.

(e) A licensee shall not accept as a client a former sexual partner.

(f) In the treatment of sexual dysfunction as well as in other areas of the practice of psychology, a licensee shall not engage in the following conduct, which is hereby defined as professional misconduct:

1. Sexual contact or deliberately hurtful contact between licensee and client;

2. In therapy groups, activities which promote, allow, or involve physical contact of a sexual or deliberately hurtful nature between the licensee and group members, or between group members themselves; and

3. Discussion of an intimate sexual nature with a client, unless that discussion is directly related to legitimate client needs and furthers the client's psychological treatment. At no time shall any such discussions include disclosure by the licensee to the client of his or her own intimate sexual relations or relationships.

(g) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or is for the sexual arousal, sexual gratification, or sexual abuse of the licensee or client.

(h) A licensee shall not seek or solicit sexual contact with a client and shall not seek, solicit, accept, or participate in sexual contact with any person in exchange for professional services.

(i) Violation of any of the prohibitions or directives set forth at (b) through (h) above shall be deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e).

(j) It shall not be a defense to any action under this section that:

1. The client solicited or consented to sexual contact with the licensee; or
2. The licensee was in love with or had affection for the client.

13:42-10.10 Financial arrangements with clients and others

(a) Fees shall be reasonable and commensurate with the status and experience of the licensee when compared with fees of licensed psychologists in the geographic area and shall be consistent with the provisions of N.J.A.C. 13:42-10.11 prohibiting excessive fees.

(b) Fees for services rendered by a permit holder or an exempt professional practicing under supervision shall be reasonable and commensurate with the status and experience of the supervisee when compared with fees of licensed psychologists in the geographic area. The supervisor shall be responsible for justifying any fee charged in light of this requirement.

(c) A licensee shall prepare and maintain a written list of current fees for standard services, which list shall be available to clients upon request. The licensee shall include all of the following information on the list:

1. Whether Medicaid clients are accepted;
2. Whether Medicare clients are accepted and, if so, if the licensee shall bill the client for any balance remaining after assignment;
3. Whether other third party payor plans are accepted;
4. The extent to which insurance payment (excluding deductible) is accepted as payment in full; and
5. Whether special fee categories are available, such as senior citizens or members of designated groups (for example, preferred provider plan members).

(d) Before commencing the therapeutic relationship, a licensee shall assist clients to understand financial arrangements. The information provided to the client shall include, but not be limited to:

1. The fee for services or the basis for determining the fee to be charged, unless services are provided during an emergency or in other circumstances where opportunity, custom and practice preclude discussion prior to the rendering of services;
2. Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
3. That insurance coverage may not be available in all circumstances; and
4. The financial consequences, if any, of missed sessions.

(e) Where payment of the usual fee would be a hardship, a licensee shall assist clients to find other sources for provision of the needed services. A licensee is encouraged, however, to make special accommodations in adjusting usual fees in appropriate cases.

(f) A licensee shall not enter into financial arrangements with clients which are likely to impair professional judgment. Improper financial arrangements shall include, but are not limited to, loans (whether borrower or lender) or assumption of liabilities for debt.

(g) A licensee shall not enter into a financial arrangement or other potentially exploitive relationship with a former client which is likely to be the product of judgment impaired by the former relationship.

(h) All permit holders and licensees shall provide to their clients or their clients' designated insurance carriers, a receipt, when applicable, for services rendered.

13:42-10.11 Prohibition on excessive fees

(a) The Board may review information and complaints alleging excessive fees charged by Board licensees. This regulation is not intended to impinge upon the strong public policy in favor of a competitive, free enterprise economy embodied in the antitrust laws of the United States and of this State.

(b) A licensee shall not charge an excessive fee for services. A fee is excessive when, after a review of the facts, a licensee of ordinary prudence would be left with a definite and firm conviction that the fee is so high as to be manifestly unconscionable or overreaching in the circumstances.

(c) Factors which the Board may consider in determining whether a fee is excessive include, but are not limited to, the following:

1. The novelty and difficulty of the service or treatment;
2. The time and effort required;
3. The skill required to properly perform the procedure or treatment;
4. Any requirements or conditions imposed by the client or by the circumstances;
5. The nature and length of the professional relationship with the client;
6. The experience, reputation and ability of the licensee performing the services;
7. The nature and circumstances under which services are provided; and
8. Comparable fees charged by licensees not under inquiry.

(d) Charging an excessive fee in violation of the provisions of this section shall constitute professional misconduct subjecting the licensee to disciplinary sanction by the Board.

13:42-10.12 Billing

(a) The licensee's bill shall include at least the following information:

1. The licensee's name, license number, tax identification number and original signature, except in the case of electronic billing, where an original signature is not

required;

2. The street address and telephone number of the practice location;
3. The dates and nature of professional services including, in connection with treatment, whether individual or group;
4. Diagnosis and insurance codes, if required or requested;
5. In a practice setting where services are provided by more than one practitioner, the name and license number of the licensee who provided the services being billed; and
6. Fees. The licensee shall identify which part, if any, of the services billed were provided by a technician at the direction of and under the supervision of the licensee pursuant to N.J.A.C. 13:42-7.3 and 7.4 and shall adjust the fee downward accordingly.

(b) A licensee billing for services rendered by a permit holder or an exempt professional practicing under supervision shall include all of the following information on the bill in addition to the information required pursuant to (a) above:

1. The name and permit number of the supervisee. If the supervisee is practicing pursuant to a Board letter of authorization issued prior to the effective date of this rule, a copy of said letter shall be provided to the client with the first billing statement;
2. The dates, if any, when the client was seen personally by the supervisor; and
3. A statement that treatment was rendered by the supervisee under the supervision of the supervisor.

13:42-10.13 Conflicts of interest

(a) A licensee shall not enter into or continue any treating relationship, or supervisory relationship of another person offering clinical services, in which he or she has any family, personal, financial or beneficial interest other than that arising from the usual therapist-client relationship. Examples of such relationships include, but are not limited to, spousal-spousal supervision, parent-child supervision, child-parent supervision, intimate partner supervision.

(b) A licensee shall not enter into any relationship which a reasonable psychologist in similar circumstances would expect to limit objectivity, impair professional judgment or increase risk of exploitation. Examples of such relationships include, but are not limited to, professional treatment of employees, tenants, students, supervisees, close friends or relatives. Professional relationships other than for treatment purposes, such as research using such persons, should be governed by caution to avoid impropriety.

(c) A licensee, whether practicing privately or within an institution or agency utilizing psychological services, shall not condone distortion, misuse or suppression of psychological findings by the licensee or others.

(d) A licensee shall not condone misuse of a psychologist's influence or professional work.

(e) A licensee shall not exploit the client's trust and dependency.

(f) A licensee who has identified a conflict of interest shall notify the parties involved and shall take action to terminate the conflict.

13:42-10.14 Prohibition on kickbacks and rebates

(a) A licensee shall not pay, offer to pay or receive any fee or other form of compensation for referral of a client for professional services or for the purchase of goods. This subsection shall not prohibit a licensee from:

1. Paying a flat fee for regular advertising services;
2. Paying a flat fee for the licensee's placement on a commercially sponsored "referral list" of licensed health care providers; or
3. Contributing a fee to a professionally sponsored referral service for provision of low-cost psychotherapy to screened clients.

(b) A licensee shall not permit the division of fees for professional services other than among licensed health care professionals in the same or in a closely allied professional health care field engaged in a bona fide partnership, professional service corporation, limited liability company, limited liability partnership, employment relationship, or between a licensee and an applicant for licensure who is working under the supervision of the licensee pursuant to a Board issued temporary permit. A licensee shall not divide fees for professional services rendered to a client with a psychologist practicing as an independent contractor.

(c) This section shall be construed broadly to effectuate its remedial intent.

13:42-10.15 Supervision of individuals exempt from licensure

(a) A psychologist may supervise services of a psychological nature rendered in

1. A private practice setting by a health care professional exempt from licensure pursuant to N.J.S.A. 45:14B-8; and

2. An exempt non-profit bona fide community organization as defined in N.J.S.A. 45:14B-6(a)3.

(b) The supervisor shall ensure that the exempt supervisee complies with all Board regulatory requirements (including preparation of client records) and with accepted standards of professional and ethical practice of the exempt agency or exempt health care professionals.

13:42-10.16 Restrictive covenants

(a) A licensee shall not participate in offering or making a partnership or employment agreement that restricts the right of a licensed health care professional to practice the licensed profession after termination of the relationship, except an agreement concerning benefits upon retirement.

SUBCHAPTER 11. ACCESS TO TREATMENT INFORMATION IN DESIGNATED HEALTH INSURANCE PROGRAMS

13:42-11.1 Purpose and scope

(a) This subchapter implements the provisions of P.L. 1985, c.256 (N.J.S.A. 45:14B-31 et seq.), which limits the scope of and establishes procedures by which clients may

authorize licensees to disclose confidential information upon the request of an insurer or other third-party payor. The following provisions of (b) through (d) below apply, unless the third-party payor is:

1. A self-insured employer or an entity providing administrative services to such an employer for the purpose of determining entitlement to benefits; or
2. The payor is a "stop-loss" plan (i.e., a plan in which an employer self- insures up to a certain amount and then purchases excess insurance beyond that amount from an insurance company. (See also 13:42-8.4.)

(b) Any consent or agreement purporting to waive the provisions of P.L. 1985, c.256 or this subchapter shall be against public policy and void.

(c) The provisions of this subchapter shall not apply when access to client treatment records may be had by otherwise lawful methods, as set forth in N.J.A.C. 13:42-11.11.

(d) Nothing in this subchapter shall preclude an interested party, including a licensee, from:

1. Filing a complaint with the Board regarding the conduct of a licensee or of an independent professional review committee (IPRC) member;
2. Notifying the Board of an apparently improper demand for confidential information made upon a licensee by an insurance carrier or other third party; or
3. Notifying the Board of an apparently improper termination or threat to terminate third party benefits without compliance with P.L. 1985, c.256 and this subchapter.

13:42-11.2 Definitions

As used in this subchapter, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

"Customary" means that range of usual practices provided by psychologists of similar education, experience and orientation within a similar geographic or socioeconomic area.

"Education" means completion of any of the educational programs and attainment of the attendant degrees that have qualified a person for licensure under the Act; that is, Ph.D., Ed.D., Psy.D. For the purposes of assigning reviewers of similar education to a given claim under review, the holders of any of these degrees shall be deemed equivalent.

"Experience" means one of the following areas of specialized practice: psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing assessment.

"Orientation" means one of the following five theoretical positions: behavioral, humanistic/existential, psychoanalytic, systems, or eclectic.

"Psychological services" means the provision of professional services which are founded upon psychological principles derived from a base of scientific knowledge and a recognized and accepted theory of clinical application; and used to promote the optimal development of an individual's potential or to ameliorate an individual's personality disturbances and maladjustment as manifested in personal and interpersonal situations. Psychological services shall be selected and rendered to clients based upon the client's need, the treating psychologist's professional experience, knowledge of empirical and

theoretical literature and professional guidelines and standards. Psychological services shall be necessary and appropriate in light of the client's circumstances, the diagnosis, the reasonableness of goals, and the adequacy of progress.

"Reasonable" means that there is a professionally acceptable probability that the client will realize a significant benefit from continuation of the psychological treatment.

"Stage I (Preliminary Disclosure)" means a request from a third party payor to obtain certain limited information about a client from the treating psychologist for the purpose of permitting the client to obtain or continue benefits from the third party payor for psychological services.

"Stage II Review" means a review conducted by an independent professional review committee (IPRC), established pursuant to N.J.S.A. 45:14B-44, for the purposes of determining whether the treatment is usual, customary or reasonable.

"Stage III Review" means a review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage II, whether the treatment is usual, customary or reasonable.

"Stage IV Review" means a comprehensive review conducted by the IPRC when the reviewers are unable to determine, based upon the information provided in Stage III, whether the treatment is usual, customary or reasonable.

"Usual" means a practice in keeping with the licensee's general mode of operation.

13:42-11.3 Stage I (Preliminary Disclosure); required authorization

(a) When a licensee receives a request from a third party payor for information about psychological services rendered by the licensee, the licensee shall request a valid authorization from the client or other designated person.

(b) The licensee shall secure the authorization within 14 days of receiving the request from the third party payor, unless precluded from doing so by the circumstances of the case.

(c) The authorization shall be in writing and shall specify at least the following:

1. The nature of the information to be disclosed, the person authorized to disclose the information, to whom the information may be disclosed, the specific purposes for which the information may be used at the time of disclosure and at any future time;

2. That the client is aware of the statutory privilege for confidential communication between a client and a licensed psychologist; and

3. That the consent may be revoked in writing by the client at any time, if such notice is given to both the treating psychologist and the recipient named in the authorization.

(d) The authorization shall be signed and dated by the client or the person authorizing the disclosure. If the client is adjudicated incompetent or is deceased, the authorization shall be signed by the client's legally authorized representative. When the client is more than 14 years of age but has not yet reached age 18, the authorization shall be signed by the client and by the client's parent or legal guardian. When the client is less than 14 years of age, the authorization shall be signed only by the client's parent or legal guardian.

(e) The authorization shall apply only to information existing as of the date signed and is effective for one year only from the date signed.

(f) The licensee shall provide a copy of the authorization to the client or the person authorizing the disclosure.

13:42-11.4 Stage I: Information to be provided to the third party payor

(a) A Stage I inquiry does not involve the Independent Professional Review Committee (IPRC). The licensee shall provide the information set forth below directly to the third party payor.

(b) Within 10 days of receipt of the authorization required pursuant to N.J.A.C. 13:42-11.3, the treating psychologist shall provide the third party payor with basic client information limited to the following. The information provided shall be marked "Confidential" and forwarded to the attention of the specific individual designated in the authorization, if any.

1. Administrative information, defined as the client's name, age, sex, address, educational status, identifying number within the insurance program, date of onset of difficulty, date of initial consultation, dates and character of sessions (individual or group) and fees;

2. Diagnostic information, defined as therapeutic characterizations (including all five Axes) of the type found in DSM III-R or the current version of the DSM or in another professionally recognized diagnostic manual;

3. Status of the client (voluntary or involuntary; inpatient or outpatient);

4. The reason for continuing psychological services, limited to an assessment of the client's current level of functional impairment and level of distress. Each aspect shall be described as "none," or by the term mild, moderate, severe or extreme; and

5. Prognosis, limited to an estimate of the minimal time during which treatment might continue.

13:42-11.5 Stages II, III and IV; Information to be provided to Independent Professional Review Committee

(a) The licensee shall notify the Board within 10 days of a request by a third party payor for a Stage II, III or IV review by the IPRC, established pursuant to N.J.S.A. 45:14B-44 and N.J.A.C. 13:42-11.6. The notification shall include the following information:

1. The licensee's major theoretical orientation ; that is, behavioral, humanistic/existential, psychoanalytic, systems, or eclectic; and

2. The licensee's area of practice specialization ; for example, psychotherapy with adults and adolescents, psychotherapy with children, marital/family therapy or testing/assessment.

(b) Within 10 days of the Board's receipt of the licensee's notification, the Board shall designate two or more members of the IPRC to serve as reviewers of the case and shall inform the licensee of their names and addresses.

(c) The licensee shall immediately provide, directly to the IPRC and not to the Board, the client's written authorization and shall disclose to the IPRC, in writing, confidential information concerning the client's treatment limited to the following:

1. For a Stage II review: The case identification number ; status of the client; duration and frequency of treatment; diagnosis including all five Axes; prognosis (including minimal length of future treatment expressed in terms of identified goal(s)); the reason for continuing psychological services stated in terms of the various functions assessed; and professional judgment as to level of impairment and level of distress (each rated as none, mild, moderate, severe or extreme).

2. For a Stage III review: All of the information set forth in (c)1 above plus a written statement describing the licensee's customary mode of treatment for the particular diagnosis and for the client in question, within the context of the licensee's theoretical orientation.

3. For a Stage IV review: All of the information set forth in (c)1 and 2 above, details and circumstances concerning the case under review, and the entire client record for inspection by the reviewers.

(d) In the event a client declines to provide the authorizations required pursuant to P.L. 1985, c.256 and N.J.A.C. 13:42-11.3, the review process shall not be undertaken pursuant to the IPRC process. The licensee shall so notify the third party payor and any assigned reviewers.

(e) Absent good cause shown, failure of the licensee to comply with any of the provisions of P.L. 1985, c.256 or this subchapter shall subject the licensee to any of the disciplinary sanctions authorized by law. Good cause shall include, but not be limited to, taking vacations of reasonable length, illness, serious family problems, or not receiving daily mail deliveries if there is more than one practice location.

13:42-11.6 Independent Professional Review Committee; responsibilities of the Board

(a) The Board shall appoint IPRC members from a pool of volunteer licensed psychologists who are screened and trained by the Board. The Board shall appoint to the IPRC, for a three-year term, licensees who demonstrate that they are:

1. Licensed in New Jersey for the five years immediately preceding appointment;

2. Active practitioners with a current minimum average of 10 hours per week of direct service in the areas of service they are authorized to review; for example, psychotherapy with adults and adolescents; psychotherapy with children; marital/family therapy; testing/assessment; and

3. Respected and known by their professional colleagues for the quality of their clinical work and exemplary professional conduct.

(b) The IPRC Administrator shall, within 10 days of receipt of notification from a licensee or a request by a third party payor for a Stage II review, designate two members of the IPRC to conduct the review and notify the treating psychologist of the assignment of reviewers.

(c) To the extent practicable, reviewers designated for case review shall be knowledgeable in the orientation used by the treating psychologist and the customary practices of that orientation.

13:42-11.7 Stage II review by Independent Professional Review Committee

(a) The reviewers shall examine the material submitted by the treating psychologist as specified in N.J.A.C. 13:42-11.5(c), as well as any material made available by the third party payor, including, but not limited to, billing statements, treating doctor reports and claim forms, and the report of an independent examining practitioner, if any.

(b) Each reviewer shall make an independent assessment of the material provided to determine, on the basis of the limited information provided, whether the psychological services for which payment is claimed are usual, customary or reasonable.

(c) Each reviewer shall confer with the other designated reviewer to ascertain whether there is agreement on the finding.

(d) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.

(e) If the two reviewers are unable to agree that services are usual, customary or reasonable, or if they both agree that the services are not; or if both reviewers find the information provided to be insufficient to reach a conclusion, the reviewers shall proceed to Stage III and shall so notify the Board and the treating psychologist.

13:42-11.8 Stage III Review by Independent Professional Review Committee

(a) The two designated reviewers shall request the treating psychologist to provide a written statement describing his or her customary mode of treatment for the particular diagnosis and for the client in question, within the context of the psychologist's theoretical orientation.

(b) If, on the basis of the information provided, the reviewers can certify that the treatment is usual, customary or reasonable, the reviewers shall so notify the third party payor and the Board, and no further review shall be undertaken by the IPRC.

(c) If the two reviewers are unable to agree that the treatment is usual, customary or reasonable, or if they both agree that the services are not usual, customary or reasonable, or if one or both reviewers find the information provided to be insufficient to reach such a conclusion, the reviewers shall proceed to Stage IV and shall so notify the Board and the treating psychologist.

13:42-11.9 Stage IV review by Independent Professional Review Committee

(a) In a Stage IV review, the Board shall appoint a third reviewer.

(b) The reviewers shall request the treating psychologist to provide details and circumstances concerning the case under review. The reviewers shall request production of the original client record including session notes, test data and results, etc.

(c) On the basis of the information provided, the reviewers shall then certify to the third party payor and the Board their conclusion as to whether the treatment is usual, customary or reasonable. The conclusion of a majority of the three-person IPRC shall be reported as the conclusion of the Committee.

(d) The reviewers shall certify to the third party payor the date and length of time of their consultation in reviewing the case.

13:42-11.10 Independent Professional Review Committee: responsibilities of reviewers

(a) IPRC reviewers shall complete the entire review process, that is, Stages II, III (if necessary) and IV (if necessary), within 20 days of their receipt of the review request by the Board. The Board shall interpret the timeframe to be exclusive of days lost as a result of injury or extenuating personal circumstances. The reviewers shall inform the Board or arrange for another to do so when such unforeseen event prevents the timely completion of a review assignment. The Board shall, in that event, attempt to appoint a substitute reviewer to complete the assignment.

(b) A reviewer shall treat all information provided by the treating psychologist as confidential and shall not disclose the information to the third party payor or to any private person.

(c) Upon termination of a reviewer's practice, the reviewer or his or her designee shall transfer all IPRC records to the IPRC office.

(d) A reviewer who believes that the information disclosed in the review raises a substantial possibility that a psychologist has engaged in any act or practice declared unlawful by a statute, regulation or accepted standard of practice of the Board shall make a report to the Board, which may conduct its own inquiry.

13:42-11.11 Independent Board investigation

(a) The Board may conduct its own inquiry into a matter pursuant to N.J.S.A. 45:1-18, notwithstanding prior consideration by the IPRC, in the following circumstances:

1. The Board is requested by the third party payor, acting in good faith, to conduct an independent investigation of a matter; and
2. The third party payor's request sets forth specific grounds for questioning the IPRC results.

(b) The Board, at its discretion, may require the IPRC to provide to the Board the complete file of the review team for investigative purposes.

(c) Independent investigation by the Board shall not preclude any available right of the reviewer to judicial review pursuant to N.J.S.A. 45:14B-34(d).

13:42-11.12 Circumstances in which IPRC process is not required

(a) The IPRC process is not required for otherwise lawful methods of access to client treatment records in the following circumstances:

1. The client, vis-a-vis another person or a third party payor, has placed his or her mental condition in issue in a litigation context, and the client has consented to release of records of the treating psychologist;
2. The treating psychologist has been requested to provide information regarding underlying claims for damages or for reimbursement of professional fees, as authorized or directed by the Rules of Court or by order of a court of competent jurisdiction (not the mere service of an attorney's subpoena for discovery in litigation);
3. The third party payor has requested, pursuant to applicable laws, inspection of the client record and/or preparation by the licensee of a written report; that is, the Personal Injury Protection Program established by P.L. 1972, c.70, N.J.S.A. 39:6A-13(b) and (e),

as amended or superseded, with regard to injuries resulting from motor vehicle accidents;

4. A third party payor has directed the client-insured to submit to mental or physical examination by an appropriate practitioner who prepares and submits findings and conclusions, pursuant to N.J.S.A. 39:6A-13(d), (e), (f);

5. A hospital, nursing home or other similar licensed health care institution has requested the licensee to provide existing client records of an inpatient for the purpose of ongoing evaluation;

6. A third party payor has requested access to hospital records, to the extent permitted by hospital rules governing the release of client records and/or mental health records in particular; or

7. The Board or the Attorney General has subpoenaed a complete copy of treatment records for the purpose of determining whether the conduct of a Board licensee conforms to accepted standards of practice.

**NEW JERSEY ADMINISTRATIVE CODE
TITLE 13, CHAPTER 45C.
UNIFORM REGULATIONS**

**SUBCHAPTER 1. LICENSEE DUTY TO COOPERATE
AND TO COMPLY WITH BOARD ORDERS**

13:45C-1.1 Applicability, scope and definitions

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, "licensee" shall mean any licensee, permittee, certificate holder or registrant of:
 - 1. The Division of Consumer Affairs;
 - 2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
 - 3. The Office of Consumer Protection; or
 - 4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee's duty to cooperate in investigative inquiries

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee's licensing agency into a licensee's conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee's failure to cooperate, absent good cause or bona fide claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1- 21(e) or the agency's enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency's enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

- (a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:
 - 1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
 - 2. The failure to timely provide records related to licensee conduct;
 - 3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
 - 4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to

records, books or other documents utilized in the practice of the occupation or profession;

5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a bona fide claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
 2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
 3. A Deputy Attorney General.
- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be

returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.